

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Tanya A. Gee, Circuit Court Judge

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SC SUPREME COURT

VINCENT RICE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-002479

APPENDIX

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State of South Carolina) In the Court of General Sessions
) Fifth Judicial Circuit
County of Richland) 2012-GS-40-0888 - 0891
2012-GS-40-1613, -1614, -1616
2012-GS-40-2680 and -2681

State of South Carolina)
)
Plaintiff,)
)
Vs.) Transcript of Record
)
Vincent Rice,)
)
Defendant.)
)
_____)

December 3, 2013
Columbia, South Carolina

B e f o r e:

The Honorable DeAndrea G. Benjamin, Judge

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

Britton All, Esquire
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Attorneys for the Plaintiff

Mathias Chaplin, Esquire
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Circuit Court Reporter

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EXHIBITS

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

1 MS. ALL: State calls Vincent Rice.

2 VINCENT RICE, having been first
3 duly sworn, testifies as follows:

4 MS. ALL: Your Honor, may we approach?

5 THE COURT: Yes.

6 (Bench conference.)

7 THE COURT: Yes, ma'am.

8 MS. ALL: Thank you, Your Honor. Britton All for the
9 State. Standing with me today is my second seat on this
10 case that's docketed for trial starting this week. This
11 is Solicitor Joseph Shenkar; as well as Master Police
12 Officer Adam Alexander of the Columbia Police Department,
13 who would have been the lead witness in our trial
14 scheduled for today. If it was to roll over, he was also
15 scheduled for the next four weeks in the State's interest
16 in resolving the case, after lots of negotiations.

17 The today, the case was supposed to go to trial. Mr.
18 Rice has agreed to plead in exchange for the following
19 deal: He's going to enter a guilty plea to two counts of
20 PWID marijuana third, each of which carry a mandatory
21 minimum of 5 years up to 20 years. No probation or
22 parole, no portion can be suspended, and 85 percent time,
23 under 24-13-100.

24 Two counts of PWID cocaine second, 5 to 30 years
25 mandatory minimum, 85 percent time; and also a strike as

1 serious classification, under 17-25-45.

2 One count of possession of crack third, which carries
3 up to 10 years.

4 Two counts of possession of controlled substance ---

5 THE COURT: Hold on one second. Hold on one second.

6 So that's two counts of possession with intent to
7 distribute marijuana, two counts of possession with the
8 intent to distribute what was the ---

9 MS. ALL: Cocaine.

10 THE COURT: Okay.

11 MS. ALL: Those are both strikes. Both of those carry
12 a mandatory minimum of five years.

13 THE COURT: At 85 percent.

14 MS. ALL: At 85 percent.

15 THE COURT: All right.

16 MS. ALL: And then possession of crack third, which
17 carries up to 10 years.

18 Two counts of possession of a controlled substance,
19 second or subsequent, which carry up to one year.

20 Possession with intent to distribute marijuana within
21 proximity of a school, which carries up to 10 years and is
22 a strike under 17-25-45.

23 And possession with intent to distribute cocaine
24 within proximity of a school, which is a strike and
25 carries up to 10 years.

1 Four of those counts are 85 percent time under 24-13-
2 100, and four of them carry a mandatory minimum of five
3 years. The highest max-out range is 30 years.

4 In exchange for his plea today the State agreed to
5 reduce two counts of PWID cocaine third to PWID cocaine
6 second, which takes the mandatory minimum from 10 years to
7 5 years.

8 THE COURT: So he's pleading to two counts of PWID
9 second.

10 MS. ALL: Yes. He was initially charged with third.

11 THE COURT: Okay.

12 MS. ALL: But in exchange for his plea, we reduced it
13 to second, thus alleviating any mandatory minimums of 10
14 years.

15 Also in exchange for his plea, we've negotiated a cap
16 of 10 years in consideration of the 5 year no-suspended
17 mandatory minimum. That leaves him exposed to a range of
18 5 to 10 years.

19 THE COURT: All right. Is that correct, Mr. Chaplin?

20 MR. CHAPLIN: That is correct, Your Honor.

21 THE COURT: So your client is pleading, so I'm clear,
22 to two counts of possession with the intent to distribute
23 marijuana second offense, two counts of possession with
24 the intent to distribute to cocaine -- is that second?

25 MS. ALL: That is second, Your Honor.

1 THE COURT: On the cocaine, too?

2 MS. ALL: On PWID cocaine, second.

3 THE COURT: Okay.

4 MS. ALL: Possession of crack, third.

5 THE COURT: On possession of crack, third; possession
6 of -- two counts of possession of a controlled substance,
7 second; one count of possession of marijuana -- possession
8 with the intent to distribute marijuana in the proximity
9 of a school; and one count of possession with the intent
10 to distribute marijuana -- cocaine in the proximity of a
11 school.

12 So I have two, four, six -- nine of them?

13 MR. CHAPLIN: That's correct.

14 THE COURT: All right. And Mr. Chaplin, have you
15 explained to your client the charges contained in the
16 indictment, the possible punishment, and his
17 constitutional rights?

18 MR. CHAPLIN: I have, Your Honor.

19 THE COURT: And have you -- and how does he wish to
20 plead?

21 MR. CHAPLIN: Guilty under *Alford*, Your Honor.

22 THE COURT: And from your investigation of the facts
23 and circumstances of this case, do you feel that the State
24 could produce sufficient evidence to convince a jury of
25 your client's guilt beyond a reasonable doubt; and that if

1 your client were to stand trial, his conviction would be
2 probable?

3 MR. CHAPLIN: I do.

4 THE COURT: All right.

5 DIRECT EXAMINATION BY THE COURT:

6 Q Is that correct, sir?

7 A Yes.

8 Q All right. And how old are you, sir?

9 A I'm 31.

10 Q How far did you go in school?

11 A A year of college.

12 Q Are you married?

13 A No, ma'am.

14 Q Do you have children?

15 A Yes.

16 Q Their ages.

17 A Four.

18 Q Are you on probation or parole?

19 A No, ma'am.

20 Q And within the last 24 hours, have you taken any
21 medication, drugs, or alcohol?

22 A No, I haven't.

23 Q How long have you been in jail?

24 A Twenty-one months -- twenty -- 23 months.

25 Q On these charges.

DIRECT EXAMINATION BY THE COURT - VINCENT RICE

9

1 A 23 months.

2 MS. ALL: Your Honor, that would be 21 days plus the
3 days since November 22 of this year. And so for a total
4 of 11 days. So 33 days total.

5 MR. CHAPLIN: But I think Mr. Rice wanted to point out
6 to the Court that, after he was arrested on these charges,
7 he has been incarcerated from January 27 of 2012, up until
8 November 22 -- up until present. So --

9 THE COURT: But on other charges.

10 MR. CHAPLIN: On a violation.

11 THE COURT: Yeah. Okay.

12 MR. CHAPLIN: Yes. But however, these charges were
13 pending and possibly could've been pled at that time to
14 roll it all together, and they weren't.

15 THE COURT: Was he transported from Alvin S. Glenn to
16 the Department of Corrections or was he out?

17 MS. ALL: He was, Your Honor. He was transported from
18 Alvin S. Glenn to the Department of Corrections when his
19 suspended sentence of three years was imposed in full.
20 And that was on February 9, 2012.

21 He was violated on his probation for two subsequent
22 re-arrests, both of which these were -- were these
23 offenses. So he was in the Department of Corrections for
24 a probation violation. According to 23 -- 24-13-40, he
25 doesn't get credit for a separate sentence for a separate

1 offense; that being the probation violation stemming from
2 the guilty plea that he entered barely over a month before
3 this first re-arrest.

4 THE COURT: All right. All right. (To the defendant)
5 Sir, listen to the facts as State -- listen to the facts
6 as stated by the solicitor.

7 MS. ALL: Thank you, Your Honor. On December 11 --
8 oh, and a correction for the record: I'm sorry, Your
9 Honor. This is Master Police Officer Adam Anderson, not
10 Alexander, of the City of Columbia Police Department, who
11 was the arresting officer on the first arrest, which is
12 the one that we intended to go forward on today.

13 That arrest stemming from December 11, 2011, which was
14 a Sunday, at about 10:30 in the morning. Sgt. Sanders of
15 CPD observed Mr. Rice asleep alone in a parked silver
16 Camaro, with possible drugs in his lap, at the Little
17 Cricket gas station, at 2715 Main Street. He radioed it
18 in, as he was off duty and in plain clothes.

19 Officers arrived on scene -- one of those being Master
20 Police Officer Anderson -- observed the defendant asleep
21 in the driver's seat with a bag of 9.1 grams of marijuana
22 in his lap, which was one large bag containing 10 smaller,
23 equally packaged baggies.

24 He was the sole occupant of the car. The car did
25 belong to an unrelated subject.

1 Officer Sanders, Lt. McKerry [phonetic,] and Officer
2 Anderson woke up the defendant. He was uncooperative in
3 exiting the vehicle. He was disoriented, smelled of
4 alcohol, and was unsteady on his feet.

5 As he exited the vehicle, a plastic bag, containing 86
6 prescription antihistamines, fell from his pocket. That's
7 prescription chlorpheniramine.

8 Once he was fully removed from the driver's seat,
9 police observed, in plain view, that he had fallen asleep
10 sitting on a large plastic bag of other substances to
11 include: four baggies of almost 1 gram of cocaine; one
12 bag of .6 grams of crack cocaine; and a bag containing
13 seven capsules of 20-milligram amphetamine salts, which is
14 generic Adderall; and five 10-milligram amphetamine salts.

15 He had somebody else's identification on him, and
16 answered to that person's name until they learned his real
17 name when they booked him. He was placed under arrest at
18 that time for PWID marijuana, which was 9.1 grams in 10
19 bags; possession of crack, which was .62 grams in one bag;
20 possession of a controlled substance, that being the
21 Adderall/amphetamine salts or the antihistamines, which
22 are used in addition to other substances to kind of slow
23 one's responses; and PWID cocaine, which was .92 grams in
24 four baggies.

25 He remained incarcerated on that offense for six days

1 and then he bonded out. In the meantime, he was tried in
2 his absence in the city court for the tickets he received
3 at the same time for drunkenness and use of another one's
4 ID. He was tried in his absence and found guilty. That
5 one January 20, which we also would have planned to enter
6 at trial.

7 On January 25, 2012, at about lunchtime, USC employee,
8 a librarian at the Thomas Cooper Library, observed the
9 defendant. They knew him to be on trespass notice;
10 recognized him by sight. He was on trespass notice for
11 August 25, 2011, and they notified the police.

12 The complainant escorted the two responding police
13 officers of the USC Police Department to the last place
14 they had seen the defendant. Police circulated, they
15 located the defendant carrying a distinctive red and grey
16 Northface book bag.

17 As soon as Mr. Rice spotted police, he threw the book
18 bag and took off in the other direction. They played kind
19 of a game of peekaboo around the book stacks until they
20 caught him. The other officer seized the bag that they
21 had seen him throw down from his hand.

22 He was ignoring commands to stop. He refused to
23 provide his identity. They found a wallet on his person,
24 and recovered two more driver's licenses that did not
25 belong to him. He did admit his identity as Vincent Rice.

DIRECT EXAMINATION BY THE COURT - VINCENT RICE

13

1 Green plantlike material was inside the book bag. He
2 was arrested for trespassing and marijuana possession, and
3 transported to headquarters.

4 Back at headquarters, they found a bigger bag of
5 marijuana containing 10.67 grams, two baggies with 1.7
6 grams crack; and an unlabeled prescription bottle with two
7 different kinds of pills inside, those being 14
8 hydrocodone and 5 oxycodone; which, for Your Honor's
9 clarification, would be two different kinds of pills than
10 the two other kinds of pills they found on him in the
11 December arrest; those being 86 antihistamines in multiple
12 milligram variations of Adderall.

13 All charges were carried on a direct-presentment
14 indictment due to a technicality at pre-lims. And I think
15 that's all for the facts, Your Honor.

16 (Brief pause.)

17 DIRECT EXAMINATION BY THE COURT:

18 Q All right, sir. Do you agree with the fact -- do you
19 believe that the State could produce sufficient evidence
20 to prove your guilt of the charges beyond a reasonable
21 doubt; and if you went to trial, your -- your -- went to a
22 trial, a jury would most probably find you guilty?

23 A I do.

24 Q All right.

25 THE COURT: Just so I'm clear, there's a possession of

1 a controlled substance, second.

2 MS. ALL: Two counts..

3 THE COURT: Two counts of that. Then there's this
4 manufacture and possession of Schedule 1, 2, 3, third.

5 MS. ALL: That's long legalese-speak for PWID
6 marijuana.

7 THE COURT: All right. PWID marijuana. But that --
8 that was third. He was pleading to a second, not a third.

9 MS. ALL: It's two counts of PWID marijuana third, and
10 two counts of cocaine second.. Everything is a third
11 except for the PWID cocaine, because ---

12 THE COURT: Okay.

13 MS. ALL: --- they carry 10 years. So we reduced it
14 so that he would only be facing ---

15 THE COURT: Okay.

16 MS. ALL: --- a five year ---

17 THE COURT: See, I wrote down ---

18 MS. ALL: --- mandatory minimum.

19 THE COURT: --- same thing she did. I thought you
20 said you reduced the PWID marijuana. So the PWID
21 marijuana is --

22 MS. ALL: Third.

23 THE COURT: -- third. Okay.

24 MS. ALL: And that's -- they write them up all
25 different ways. But that's the 01-88 CDR.

DIRECT EXAMINATION BY THE COURT - VINCENT RICE

15

1 THE COURT: And he has two counts of that. And then
2 PWID and then distribution.

3 MS. ALL: And those are the same thing probably.

4 THE COURT: All right.

5 (Brief pause.)

6 THE COURT: Cocaine, PWID cocaine is second offense.
7 And he has two counts of that?

8 MS. ALL: Yes, Your Honor.

9 THE COURT: All right. And then there's one count of
10 possession of cocaine third.

11 MS. ALL: Crack.

12 THE COURT: Crack third.

13 MS. ALL: Possession of crack third.

14 THE COURT: All right.

15 DIRECT EXAMINATION BY THE COURT (continues):

16 Q All right, sir. Do you understand that on all these
17 drug charges that, that I could run them consecutive?
18 You'd be looking at 101 years in jail. You understand
19 that?

20 A Yes.

21 Q Knowing that, you still wish to enter your plea under
22 *North Carolina vs. Alford* and for the misdemeanors as a no
23 contest; is that which you wish to do?

24 A Yes.

25 Q All right. You understand these are drug offenses.

1 They have what we call an "enhanced penalty provision."

2 That's why the seconds carry more -- the thirds carry more
3 than the second. The second carries more than the first.

4 You understand that, sir?

5 A Yes.

6 Q If you get any future drug charges when you get out
7 the Department of Corrections, you will be -- you will be
8 looking at third or aboves; you understand that, sir?

9 A Yes.

10 Q Knowing that, you still wish to plea -- enter your
11 plea under *North Carolina vs. Alford*?

12 A Yes.

13 Q All right. And sir, when you plead guilty or plead
14 guilty under *North Carolina vs. Alford* or plead no
15 contest, sir, you give up certain important constitutional
16 rights: You have the right to a jury trial. At a jury
17 trial, the State would have to prove you guilty beyond a
18 reasonable doubt. You and your attorney would have the
19 opportunity to cross-examine any witnesses that they would
20 present. You yourself would not have to testify. The
21 burden would be solely upon the State to prove you guilty
22 beyond a reasonable doubt. If you gave incriminating
23 statements, sir, you'd have the opportunity to challenge
24 the admission of the statements. If there was an issue
25 regarding suppression, you'd have the opportunity to have

1 a suppression hearing.

2 But sir, by pleading guilty, you give up your right to
3 a jury trial. Is that which you wish to do?

4 A Yes.

5 Q You've been represented by Mr. Mathias Chaplin. Are
6 you satisfied with his representation?

7 A I am.

8 Q Do you need any more time to speak with him?

9 A No, ma'am.

10 Q And has he done everything for you that you feel he
11 could have done or should have done?

12 A I believe he has.

13 Q And are you completely satisfied with his services?

14 A I am.

15 Q Is anyone forcing you to plead guilty today?

16 A No.

17 Q And are you pleading guilty of your own free will?

18 A Yes, ma'am.

19 Q And are you pleading guilty because you are guilty of
20 all of these charges?

21 A Yes, ma'am.

22 Q Have you understood -- guilty under *North Carolina vs.*
23 *Alford*.

24 A Yes, ma'am.

25 Q Have you understood my questions?

1 A Yes, ma'am.

2 Q Have you answered them truthfully?

3 A Yes, ma'am.

4 Q You understand you have the right to appeal your
5 guilty -- your plea today within 10 days of today's date;
6 you understand that, sir?

7 A Yes, ma'am.

8 THE COURT: All right. I find that there's a
9 substantial factual basis for this plea. I also find that
10 the defendant's decision to plead guilty is freely,
11 voluntarily, knowingly, and intelligently made; that he is
12 represented by counsel, to whom he's indicated to me he's
13 completely satisfied with. I will accept your plea under
14 *North Carolina vs. Alford*.

15 (To Ms. All) Priors.

16 MS. ALL: Yes, Your Honor. If I may, with all due
17 respect to the Court, I believe that the maximum amount of
18 time he'll be facing would be 132 years, as opposed to 101
19 years: 20 years on the PWID thirds; 30 years on the
20 cocaine thirds. That's 100. Then there's the possession
21 of crack, marijuana prox, cocaine prox. Those are 30. So
22 it's 130. And then two possessions of controlled
23 substances which is 2.

24 THE COURT: All right. So it's 142 years?

25 MS. ALL: 132.

1 THE COURT: You understand that, sir? That's the
2 total amount of time you have on all these charges.

3 THE DEFENDANT: Yes.

4 THE COURT: Also I need to explain to you that -- I
5 need to make sure we're clear on that before we go any
6 further.

7 On Indictments 2012-GS-40-2680 and -2681, these are
8 the distribution of -- possession with the intent to
9 distribute cocaine. They have what we call -- they --
10 they have this -- the enhancement is with the drugs. But
11 they're classified as a serious -- it's classified as a
12 serious offense, sir, meaning that this is a strike
13 against you under our three-strike law.

14 If you were to get two more strikes, I don't -- I'm
15 sure -- I'm not sure what you, if you have one already.
16 But if you had something they classified on the third
17 strike, you -- the State can move before the Court for
18 life without parole; you understand that, sir?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Knowing that, you still wish to plead
21 guilty?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: All right. Also sir, you also understand
24 that on some of these drug offenses, I believe the PWID
25 cocaine, also it has what we -- it's considered violent

1 and you would have to -- and for the purposes of the
2 Department of Corrections's classification, you'd have to
3 serve 85 percent of any sentence that you get. You
4 understand that, sir?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Knowing that, you still wish to enter your
7 plea today?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: All right. I find that he -- the -- once
10 again, that the defendant has -- that the defendant is
11 clear as to the time, as to the classification, as to the
12 most -- the serious strike against him. I will accept
13 your plea.

14 (To the solicitor) His priors.

15 MR. SHENKAR: Yes, Your Honor. Joseph Shenkar for the
16 State, taking on this portion. Your Honor, the State is
17 requesting that there is a range of 5 minimum and 10
18 maximum; that Your Honor will -- on the most severe side
19 of the penalty, towards the 10 years. The reasoning is,
20 for a part of it, has to do with his record.

21 He has a 2001 conviction for simple possession of
22 marijuana; 2003 conviction for simple possession of
23 marijuana; 2004 possession of cocaine, for which he
24 received two years suspended to one year probation.
25 Another conviction from 2004 for simple possession of

1 marijuana. In 2006, resisting arrest; possession of
2 cocaine, for which he received one year. In 2007,
3 possession with intent to distribute cocaine, for which he
4 received two years suspended on one year probation. From
5 2008, he has two convictions for DUI and possession of a
6 controlled substance. And then from October of 2011, he
7 had a conviction -- convictions for indecent exposure and
8 possession of a controlled substance, for which he
9 received three years suspended to time served and 18
10 months probation.

11 Now, that conviction was in October of 2011. In
12 December of 2011, is this -- this incident took place, the
13 one that we were ready to proceed to trial. And in
14 January, he was revoked on that four-year sentence and was
15 sent to the Department of Correction.

16 Your Honor, he's obviously been given opportunities.
17 He obviously could have done whatever he needed to do to
18 get the help that he needed with the drugs. At this
19 point, because of the proximity of the charges to one
20 another as well as the -- as the severity and the lengthy
21 conviction rap, we ask that you will -- towards the most
22 severe side of the sentencing and not towards the five
23 years.

24 THE COURT: All right.

25 MS. ALL: Thank you, Your Honor. I would just like to

1 concur in that position, to point out that he's had
2 probation several times for similar drug offenses. He's
3 been revoked almost every time. On the ones that he
4 didn't get probation on, he got time served or some kind
5 of a suspended fine.

6 We have MPO Anderson here with the City, because he
7 was ready to go to trial. Mr. Rice declined the
8 opportunity to plead under *Alford*, where he had no
9 mandatory minimums and where the State dismissed all
10 strikes; anything he would have been facing for LWOP, as
11 well as all the controlled substances.

12 He told his attorney he needed to pray on it, you
13 know, inferred that he would only like to plead in front
14 of a particular judge. We gave him multiple opportunities
15 to resolve this case.

16 At this point we've had to prepare it for trial per
17 his insistence that -- that he exercise that right to a
18 trial. We just want to point out how many opportunities
19 he's already had, and also to point out again, as Mr.
20 Shenkar said, a case in October, 2011, where he had
21 multiple PWIDs pending as well as indecent exposure.

22 The PWIDs were dismissed in exchange for his guilty
23 plea to the indecent exposure, since that offense was
24 different than the other offenses, and since another drug
25 offense wasn't going to serve any more for enhancement

1 purposes because he had so many priors.

2 I'm personally acquainted with the solicitor that
3 prosecuted this case who struggled when -- when she
4 learned that he had been re-arrested so soon thereafter.
5 And then, once out on a pending probation violation and
6 another bond, he -- he re-offended again.

7 So we understand Mr. Chaplin's mitigating factors of
8 Mr. Rice's time spent in prison; but under statute, he
9 doesn't have a right to that time, according to 24-13-40.
10 I'll be glad to hand up, Your Honor, a copy if you wish.
11 Do you need one?

12 THE COURT: I'm familiar with it.

13 MS. ALL: Okay. That he is serving a sentence for one
14 offense and is awaiting trial and sentence for a second
15 offense in which case he shall not receive credit for time
16 served prior to trial.

17 We did give him multiple opportunities to plead. He's
18 been transported multiple times and has declined each
19 time.

20 In light of that, Your Honor, with all due respect to
21 Mr. Rice's wishes to improve himself in the future, we
22 feel that to face the consequences of his actions in the
23 past, a sentence on the side of 10 years would be more
24 appropriate.

25 THE COURT: All right. Thank you. Yes, sir.

1 MR. CHAPLIN: Thank you, Your Honor. Mathias Chaplin
2 for Vincent Rice. Your Honor, I think Mr. Rice wants to
3 address the Court, but I -- I just feel compelled to -- to
4 -- to say a few things first. And the first thing I
5 wanted to say is that the State has gone on and on and on
6 about how many opportunities Mr. Rice has had.

7 And if you listened to that arrest record, it's
8 screaming that Mr. Rice has an addiction problem. Not
9 once in that entire record that either solicitor read does
10 it say anything that he was afforded an opportunity to do
11 any type of treatment. He was continually placed in
12 probation, knowing that he had a drug -- a drug and
13 alcohol problem, knowing that he was going to fail.

14 I know that Mr. Rice fully intended to try to do
15 better each time, but it's a disease. And I think that
16 the Court's are amply aware of that now, and they have
17 diversion programs and other things to try to help people
18 like Mr. Rice.

19 Mr. Rice has been in the system, and he just keeps
20 getting arrested and going to jail and doing this and
21 whatever the case might be. He has a problem, and as much
22 as they want to say he was given opportunities, I would
23 say that he's been given opportunities to fail repeatedly
24 and repeatedly.

25 I'm not trying to say that what Mr. Rice -- Mr. Rice's

1 behavior should be condoned. I think Mr. Rice needs
2 treatment and he needs help. And Mr. Rice is going to
3 tell you that in just a second.

4 As far as him having an opportunity to plead before he
5 did that long stint in jail after he was violated, those -
6 - that opportunity occurred probably somewhere down the
7 road. But -- and I understand what the statute reads, but
8 I'm speaking to a sitting judge; and I'm saying I just
9 want you to consider the fact that he spent from January
10 27 of 2012, up until November 22 of 2 -- 2013, in the
11 Department of Corrections. And I just want you to
12 consider that when you determine the amount of time you
13 think is necessary for him to be rehabilitated and
14 properly punished, for lack of a better word, for the
15 offenses in front of you.

16 He definitely needs some treatment. Mr. Rice is not a
17 drug dealer. Mr. Rice has been repeatedly caught with
18 possession, possession, possession. I do know that
19 there's some PWIDs and things in there, and I think that -
20 - I don't know the facts, but I know in this particular
21 case, the inference weight has rarely been met. But the
22 way it's packaged or whatever, well, that's probably the
23 way he bought it. I mean, if you buy a six pack of beer,
24 it's packaged for sale, but that doesn't mean you sell
25 beer. That just says that that's how you bought it.

1 The new changes in the law, trafficking offenses now,
2 some people can get like 65 percent and do like a year and
3 a half, and be out for a trafficking offense. We're
4 talking about much less than that in this particular case.

5 He was on probation, but I don't think anybody in
6 Probation ever suggested or required him to do any type of
7 treatment.

8 And as far as the State's offer, they're right. They
9 did make an original offer of five. And I'm just asking
10 that you not punish Mr. Rice that he wanted more time to
11 work with me. He was not comfortable with me at first and
12 some other things like that. And I just want you to not
13 punish him because he took that time. I think that this
14 is a big decision that he's making, and I think that he
15 certainly should be afforded an opportunity to take some
16 time so he could make that decision in a mindful way.

17 I don't see anything really violent in this guy's
18 past. I mean arm robbery, burglary, stuff like that. I
19 don't see that. I see some resisting arrest. That's
20 probably when he was drunk.

21 He needs to quit drinking. He said every time he got
22 high, he had a drink first. He needs to get off the -- he
23 needs to quit doing that.

24 And we're just asking Your Honor that you consider the
25 lower level of that, the minimum, which is five. I think

1 that he's already been incarcerated for a long period of
2 time. While you may not be able to give him credit for
3 that amount of time, I do think that he has -- certainly
4 eligible for around 30 days of credit for time served.

5 And -- but -- but I just want you to consider that as
6 far as -- he's -- his freedom has been taken from him for
7 quite some time now. And I'm not trying to fault anyone
8 as to why everything wasn't lumped together, but I wish
9 that, you know, maybe the violation hearing had been
10 deferred; and maybe he could have got time served and then
11 done everything at one time. But unfortunately it didn't
12 happen that way, so here we are.

13 And again, I just would ask that you consider the fact
14 that these are some pills and some weed and some powder.
15 He -- he's a user; he needs to quit doing that. His whole
16 life has been disrupted by this. He's never had a real
17 relationship with his family, with a significant other, or
18 anything like that. And -- and he's really paid a price.

19 And I'm going to let Mr. Rice just say a couple of
20 words if -- if Your Honor is so inclined to allow him to
21 do so.

22 THE COURT: That's fine.

23 MR. CHAPLIN: Okay. Go ahead, Mr. Rice.

24 THE DEFENDANT: Thank you. First of all, I'd like to
25 say that I'm here to get this behind me, because I realize

1 that I have to do it to move forward in my life. And
2 really, it -- like these charges, like what they carry and
3 everything, I'm -- I'm not a dealer, but I've been using
4 drugs since the age of 17, since I moved out my parent's
5 house.

6 And I can't say where -- pinpoint where it really
7 started at or why, but I realize -- I've had time to
8 really kind of look at my life since my incarceration.
9 And kind of realized where I went wrong or -- but all this
10 time I've kind of been a victim of myself. And I've been
11 hurting the ones that did love me, like my foster parents
12 and -- that took care of me.

13 And I never really got -- sought help while I was out
14 there, counseling or rehab or anything like that, because
15 I always thought that I could fix it whenever the time was
16 necessary. But now here I am in a position where I'm
17 facing things that -- that really doesn't tell the whole
18 story about me.

19 And it -- it's -- it's not, like -- like he said, I've
20 never really harm [sic] anybody. And at the time, when I
21 was out ripping and running and doing things, drinking and
22 thought I was -- fun, I didn't think I needed help at the
23 time. But I realize that I -- I should have sought help.
24 And I let -- I made the choice of letting drugs and
25 alcohol rob me of my ambition and I want that back.

1 And the experience I've had with incarceration, this
2 is the longest I've been sober or without drugs in my
3 system. And I kind of see the difference -- I see the
4 difference. I don't kind of see the difference. But I
5 see the difference, and I have some things I want to do in
6 my life and just start over. And if this is the way that
7 -- this is the route I have to take to start over. And as
8 far as things that all have gone away since I've been
9 incarcerated, I've -- I've -- I had a sister that called
10 me -- I -- I wrote the -- the prosecutor a letter about me
11 and telling her and explaining these things.

12 I had a sister that contacted me and she's -- she's my
13 half-sister. And I never knew that because I grew up in a
14 foster home. I don't know, maybe those could have been
15 the things why I did drugs. I struggle with that. In my
16 teenage years I went to different homes, didn't grow up in
17 a stable place. And I really didn't have a blueprint of
18 what to do, I -- things out there. I was making mistakes,
19 and you know, things like that.

20 I'm just asking though, Your Honor, that you give me a
21 lenient sentence. Maybe this time I do, I -- I could
22 still work at the -- the areas I'm not all the way up to
23 par at; because prison, it's a real violent -- I mean,
24 from my experience there, it's a real violent place that
25 you have to prove yourself to survive there. And only

1 that -- being in that experience has taught me that. Even
2 if somebody had to tell me that, I -- I guess I made it
3 hard for myself through my choices that I had to learn
4 this way.

5 And I'll never forget it. It's -- and I'm not as
6 young as I used to be. I went in at 29; now I'm 31 years
7 old. And now I'm maturing; I feel the maturity that I'm
8 not -- I can't just rip and run, drink and get up. It --
9 it's -- it's crunch time in my life.

10 This is the biggest decision I [sic] ever made. My
11 family's not here. I wish they were. I didn't have time,
12 you know. And that's all I have to say. I just ask that
13 you understand --

14 THE COURT: All right. Thank you.

15 THE DEFENDANT: -- the five years.

16 THE COURT: Question: On his -- time that he served,
17 was he violated for these charges?

18 MS. ALL: Yes, Your Honor.

19 THE COURT: That was the only reason for the
20 violation?

21 MS. ALL: I don't know the reason for the violation.
22 I know he was revoked in full. It may well have been
23 because he never reported or he was behind on fines and
24 fees.

25 I do know that in probation, in the past, he was

1 ordered to complete random alcohol and drug testing and
2 counseling; but I don't know what the circumstances were
3 here.

4 Regardless, it's the legislative decree and the
5 State's position that the sentence that he served in the
6 Department of Corrections was, unfortunately, what he
7 should have served instead of getting the leniency of the
8 Court and being sentenced to probation. Instead, that
9 sentence was imposed, and he had to serve that time. And
10 this would be considered a separate sentence.

11 I do want to acknowledge on the record the letter. It
12 was -- I did read it. It's very good.

13 (To the defendant) And as you acknowledge in your
14 letter, I am bound by the terms of the law. And in fact,
15 without this plea deal, was a mandatory minimum of -- of
16 10 years.

17 But would also like to point out, and if Your Honor
18 would like me to go over the weights again, obviously we
19 discussed, Mr. Chaplin and I, what an inference weight
20 means, that it's one of many considerations.

21 But Mr. Rice, by his own admission, is unemployed and
22 without residence; but did contain \$140 when he was
23 arrested for the Columbia Police Department arrest -- or
24 \$240; and \$132 when he was arrested by USC, all in small
25 bills.

1 MR. CHAPLIN: Your Honor, if I may add, that my
2 understanding is that it was due to the January 25 arrest
3 he got violated on the 27th. He got arrested on the 25 of
4 January, 2012, and my understanding is is that he was
5 violated on the 27th of January. (To the defendant) Is
6 that correct?

7 THE DEFENDANT: That's correct.

8 MR. CHAPLIN: Yeah. And he's been incarcerated since
9 then. So he -- so I mean, I guess someone looked at the
10 fact that he got arrested in December and then again in
11 January, and said, "no." And then he was severely
12 violated in full.

13 THE COURT: Is Probation out there? Is somebody ...

14 MR. SHENKAR: Troy is outside. I did see him.

15 (Brief pause to retrieve Probation Agent Troy Smith.)

16 THE COURT: (To Probation Agent Smith) Mr. Smith --

17 AGENT SMITH: Yes, ma'am.

18 THE COURT: -- can you look up his fil and see why he
19 was violated?

20 AGENT SMITH: What's the name?

21 THE COURT: Vincent Rice. The question is -- there's
22 a question of was he -- we know he was -- we think he was
23 violated for new charges, but I'm trying to figure out if
24 that's the only reason he's violated.

25 AGENT SMITH: Vincent Rice?

1 THE COURT: Uh-huh.

2 (Brief pause.)

3 THE COURT: Yes, sir.

4 AGENT SMITH: Yes, ma'am. His violations were mostly
5 the new charges he received in 2011. And I think you
6 violated him in January 2012.

7 THE COURT: Okay. Thank you.

8 AGENT SMITH: You're welcome.

9 (Brief pause.)

10 THE COURT: All right. Let's see. On Indictments
11 2012-GS-40-891, 2012-GS-40-614, -2680, -2681, sir, you --
12 -1613, -888, -889, sir, you'll be sentenced to the State
13 Department of Corrections for seven years. I've put on
14 here for you to get treatment with ATU.

15 On 2012-GS-40-890, you'll be sentenced to the State
16 Department of Corrections for two years.

17 All the sentences will run concurrent.

18 Sir, I'm going to give you credit for a little bit of
19 that time, because as the solicitor stated, since you were
20 -- technically, that was for the probation violation, I'll
21 give you credit for one year of the time on the three
22 years.

23 On the three-year probation violation, he gets credit
24 for one year time served total, along with what he's
25 already served on these charges, which was 33 days plus 21

1 days. So it's one year total.

2 MR. CHAPLIN: One year total.

3 THE COURT: Yeah.

4 MR. CHAPLIN: Okay. One year ---

5 MS. ALL: The one year would include the time he
6 served ---

7 THE COURT: Uh-huh.

8 MS. ALL: --- at the Alvin S. Glenn Detention Center.

9 THE COURT: Uh-huh. And all sentences will run
10 concurrent.

11 MS. ALL: Thank you, Your Honor.

12 MR. CHAPLIN: Thank you very much, Your Honor.

13 THE COURT: Good luck to you, sir.

14 MR. SHENKAR: Thank you, Your Honor.

15 THE COURT: All right.

16

17 -- END OF TRANSCRIPT RECORD --

CERTIFICATE

I, the undersigned Bonnie H. Kelly, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fifth Circuit Court, for Richland County, South Carolina, on the 3rd day of December, 2013.

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

Bonnie H. Kelly, CVR

Official Court Reporter

Columbia, South Carolina

June 9, 2014

STATE OF SOUTH CAROLINA

County of RichlandVincent Jermaine Rice #316178

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

vs.

State of South Carolina

Name of Respondent.

2014 CP400-1246
In the Court of Common PleasAPPLICATION FOR
POST-CONVICTION RELIEFINSTRUCTIONS — 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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention Kirkland Reception and Evaluation Institute
2. Name and location of Court which imposed sentence Richland County Judicial Center
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) GS-40-00891 / GS-40-01614 / GS-40-02681
 - (b) GS-40-01613 / GS-40-00888 / GS-40-0889
 - (c) GS-40-01616 / GS-40-00890 / GS-40-02680
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) _____
 - (b) _____
 - (c) _____

2014 FEB 26 AM 10
CLERK OF COURT
RICHLAND COUNTY

5. 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 Alford plea

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

yes

7. If you answered "yes" to (6), list

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

- i. S.C. Court of Appeals
 ii. _____
 iii. _____

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

- i. The Appellant Court has not granted an appeal thus far,
 ii. _____
 iii. _____

(c) the date of each such result:

- i. _____
 ii. _____
 iii. _____

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

- i. _____
 ii. _____
 iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) _____
 (b) _____
 (c) _____

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

- (a) Ineffective assistance of counsel
 (b) Insufficient chain of custody/insufficient evidence
 (c) Defective + invalid indictment (lack of due process) and subject matter jurisdiction

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) See attached documents labeled I-IV
 (b) _____
 (c) _____

1) In Criminal cases it's an attorney's lawful and professional duty to discover if the court has jurisdiction over the subject of action and if his client has been properly served with process of the law Blackstone. Mr. Chaplin neglected this duty. This is true because the Defendant was not properly served with orderly process of the law on the returned indictments of his case. As orderly process, the Clerk of court must:

1.) attest in her own name under the seal of the court, all writs and processes issued in sessions court 2.) sign officially all judgements and state time when each was signed and entered, id 14-17-240. The Defendant's indictments do not have the attestation of the Clerk under the court's seal, neither did the clerk sign the writs and indictments stating the time and date filed. The counsel was ineffective because he failed to contest the defective indictments.

1) The counsel proved to be ineffective regarding the court's jurisdiction of subject matter. The Defendant expressed to the counsel that he did not fully understand the nature of the P.W.D. indictments, regarding the wording of the offenses.

Mr. Chaplin stated, "Oh, they make it broad enough to put a barn through it." The Defendant made a request for him to dismiss the indictments, however, he said he would only move to dismiss the indictments in the event of a jury trial. He prevented the Defendant opportunity to challenge the sufficiency of the indictments against due process. A criminal attorney has the ability to enter for a special appearance before the Judge to address jurisdiction and lawful process of indictments Blackstone. Therefore, the Defendant did not have to engage a jury trial, just to be afforded an opportunity to challenge the sufficiency of the indictments in court. The Counsel deprived the Defendant of adequate counsel in this regards.

1) Upon meeting Mr. Chaplin, the Defendant informed him of a video that was more than likely in his favor. The video was vital because it contained footage of the incident and would have proven the officer's report to be false and misleading. Mr. Chaplin stated he would look into it, but he never did. In fact he made no effort to review the video or question the employees who worked the day of the incident. On Dec 3, 2013, all he could say was, "I think it's too late now to retrieve the video." There was no excuse, Mr. Chaplin was made aware of the video in advance. The Defendant also informed his counsel that preceded Mr. Chaplin of the video also. Nonetheless, the video did exist. The Defendant spoke with the manager in mid Dec 2011, she stated the video was available but could only be obtained by a lawyer. Mr. Chaplin gave an impression he was uninterested in a video. The counsel's unwillingness to retrieve or review a video in his clients favor, proves his performance all below the standard of reasonableness.

1) The counsel was ineffective because told the Defendant in reference to a jury trial; 'Who's gonna believe you, when you have prior convictions for drugs.' He said it may be brought up or it may not. Horton v. State 411 S.E 233

On Nov 3, 2013, The counsel along with the Judge, informed me that I had no right to a Grand Jury transcript after I made a request for one. ~~was~~ The Defendant was told that it was a "secretive procedure" and he was not allowed to examine it. ct State v. Gunn 437 S.E 2d 75

Continued on Reverse side →

This issue specifically regards warrant #'s (DP12117, DP12118, DP12073, DP12074). The ³⁰ alleged narcotics in these cases proves to have "missing links" in certain areas and "inconsistencies" in others. The chain of custody was incomplete, therefore the evidence was insufficient and could not support the stated allegations. In the case of State v. Hatcher 481 SE 2d 925 the court states, "A party offering into evidence fungible items such as drugs must establish a complete chain of custody as far as practicable." In addition, the S.C. courts have consistently held that all persons in the chain of custody must be identified and the manner of handling the evidence must be demonstrated. In State v. Chisolm it emphasizes, "all custodians, including the chemist must produce sworn statements as they receive evidence and pass it along." The chain of custody for the above offense was insufficient according to S.C. rules of procedure and the interpretation of those rules by the S.C. Courts.

The basis of insufficient chain of custody begins with the "missing links" of the Marijuana regarding warrant #'s (DP12073, DP12117). The original arrest warrants states, officer K. Williams found a positive field test of Marijuana on Jan 25, 2012, that weighed a total of 10.7 grams. After a review of the Initial Chain of Custody Sheet, it should be noted the alleged Marijuana was NOT submitted into the evidence locker by Daniel Alonzo, when the evidence was retrieved by Toby Freeman on Sept 19, 2013 (20 month span). The 10.7g of Marijuana was neither present or withdrawn from the evidence locker; this is true because the Marijuana exist nowhere on the Drug Request to SLED, nor does it exist on the Chain of Custody sheet.

On the contrary, the Defendant received a post-conviction analysis of the Marijuana. It seems the Marijuana was analyzed by D. Girndt on Sept 19, 2013. In respect to Rule 6, D. Girndt did not provide a sworn statement as to when, how and from whom the Marijuana was received. More importantly, the analysis further stated the Marijuana weighed 13.1 grams, which is considerably more than the 10.7 grams stated in the warrant. It's evident the Marijuana was "missing" throughout the chain of custody, so how did this analysis come about. In State v. Hatcher it's stated, "when the substance has passed through several hands the evidence must not leave it to conjecture as to who had it and what was done with it between the taking and the analysis." The Defendant's chain of custody raises such questions. Why wasn't the Maryj submitted into the evidence locker? Where did it reappear from on 9/19/13? Why did it take 20 months to test it? How did the analysis, D. Girndt come into the possession of the Maryj? How is it possible the Maryj weighed more after testing? Was this the same Marijuana from the incident or different altogether?

The documentation of the Chain of Custody will prove evident missing links existed, causes the evidence against the Defendant to be incomplete and insufficient to support the said offenses. cite S.C. Rules of Court, Rule 6.

DATE
TIME
RECV

The 4 Defendant's indictments were insufficient for a guilty plea to be accepted. They were not filed and properly processed through the Clerk or served to establish official jurisdiction of the court. According to Blackstone Pleadings & Practice, judgement can only be given after an indictment has been filed. It is generally held that the court can acquire no jurisdiction of prosecution unless an affidavit and indictment are filed. Where an oath is required a pleading or indictment is insufficient if it isn't verified by the clerk of court Blackstone. This rule is established to avoid false and fictitious indictments.

Specifically, South Carolina law provides that
(1) the Clerk shall:

(a) issue every execution, bench warrant or other processes issuable or directed to be issued by the courts of sessions in the name of the Attorney General or Solicitor of the circuit (b) issue all rules and notices ordered in the common pleas or sessions court (c) attest in his own name under the seal of the court, all writs and processes issued either in the common pleas or general sessions and (d) sign officially all judgements and state the time each was signed and entered, id 14-17-260

The Defendant's indictments were presented upon an oath to the Grand Jury, therefore the clerk (Deannett McBride) was required to attest to the documents under the seal of the court, which verifies and makes them valid legal documents. Furthermore, a returned "true bill" indictment is an action and/or judgement by the Grand Jury; therefore it must be officially signed by the Clerk, included with the time and date it was entered. The clerk of Court should have properly served and processed the Defendant's indictments in respect to the law.

It should be noted the Defendant's indictments were not attested by the clerk under the seal of the court, neither were the indictments officially signed with the time and date that each document was entered. Therefore, the indictments are invalid and insufficient in law. The Defendant can produce copies of the said documents. Furthermore, judgement could not be given on the void indictments.

In conclusion, the Defendant's imprisonment is unlawfull because the court held no jurisdiction to prosecute the Defendant due to the lack of proper process and service by the Clerk of Court. This constitutes legal errors.

The Circuit court had no jurisdiction to accept a guilty plea on all the P.W.I.D convictions. The court lacked subject matter jurisdiction because the P.W.I.D indictments did not sufficiently state the offenses, therefore there was an insufficient "factual" basis for a guilty plea.

The form and statements of the allegations within these indictments are made void in several ways.

An indictment is an accusation in writing presented by the grand jury. However, there are general rules and principles of form that must be followed to make an indictment sufficient in law. The following legal authority is referred by Blackstone Legal Assistant vol VI.

RULE I: An Indictment must not be Repugnant or Double. An indictment is "Repugnant" if matter is in opposition (or opposite) to what's stated in another part, if so the whole is void, Blackstone. It should be noted the subject matter within the P.W.I.D indictments proves to be Repugnant. Take indictment # GS-40-01613 for example. It states that the Defendant DID, manufacture, distribute, dispense, deliver a quantity of Marijuana. On the contrary, it states the Defendant purchased a quantity of Marijuana. The allegations are "Repugnant" against the rules of law because they are in opposition. S.C section 44-53-10, will clarify the terms distribute, manufacture, dispense and deliver indicates a "Seller" of narcotics for profit. The term purchase indicates a "Buyer" of narcotics. To "Buy" is the opposite of to "sell", therefore the matter is Repugnant and void by law. This matter also gives grounds for Double pleading or Duplicitly.

RULE II: statements must not be in the Alternative.

Indictments must be made in a positive manner and not in the "Alternative." It can't allege one fact "or" another fact is true, but must allege one of the facts as true fact. Alternative statements are void because it leaves it uncertain which offense was committed. Blackstone.

The statements in the P.W.I.D indictments are proven to be Alternative against the orderly rules of law. As an example it states the Defendant DID 1.) manufacture, distribute, deliver 2.) OR aid; abet, attempt 3.) OR conspire to manufacture, distribute deliver 4.) OR possess with the intent to manufacture, dispense, deliver 5.) OR DID purchase a quantity of Marijuana. The word DID indicates FACT, however the statements following the word DID gives multiple "Alternatives" to the fact or facts. The language must be specific and stated with certainty and particularity. The alternatives of the indictments gives too great of a latitude for conviction. In indictment # 01613, there are 19 different variations of the offense; It's a matter of choose a fact, if not that one choose another. Furthermore, the state must prove affirmatively every fact and circumstance constituting the offense as stated in the indictment. How could these uncertain statements be proven? The statements in the P.W.I.D indictments are of multiple particulars, which results in a failure of proof on the evidence that can be produced. The indictments were not sufficient in law, they were not stated with certainty and particularity. Therefore, there was no factual basis to accept a guilty plea.

OMIA

WVIT

BEVI

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? _____
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? _____
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____

Yes

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. The Defendant submitted a motion of Reconsideration of Sentence
- ii. on grounds of insufficient evidence, unlawful enhancement and
- iii. breach of a plea bargain that should have included CTS of
- iv. 2 years.

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

- i. Richland County Judicial Center
- ii. 1701 Main St
- iii. Columbia, South Carolina 29201
- iv. _____

(c) the disposition thereof:

- i. No disposition thus far, or no response.
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

Yes

(a) which grounds have been presented:

43

- i. Ineffective assistance of counsel
- ii. Insufficient chain of custody/insufficient evidence
- iii. _____

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

- i. The Defendant attempted to be released of counsel on Nov 13, 2013, GS
- ii. Ineffective assistance of counsel was submitted to the S.C
- iii. Court of Appeals after conviction.

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) Defective & Invalid indictments / subject matter jurisdiction
- (b) These grounds weren't presented because Defendant is a layman of the law
- (c) and didn't know the orderly processes. He discovered the facts well after conviction.

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

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

17. If you answered "yes" to one or more parts of (16), list:

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

- i. Mark Sawyer, Public Defenders office
1701 Main Street, Columbia, S.C 29201
- ii. _____
Mathias Chaplin
- iii. 4111 N. Main St
Columbia, S.C 29201

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

- i. Mark Sawyer - Preliminary hearing and 1st Bond Revocation
- ii. Mathias Chaplin - 2nd Bond Revocation and all other procedures.
- iii. _____

18. State clearly the relief you seek in filing this application.

Dismissal of the indictments and vacation of sentence

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

No.

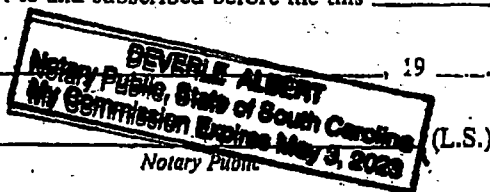
County of Richland

I, Vincent Jermaine Rice #314178, 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.

Vincent Rice

SWORN to and subscribed before me this _____

day of _____, 19____



My Commission Expires: _____

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

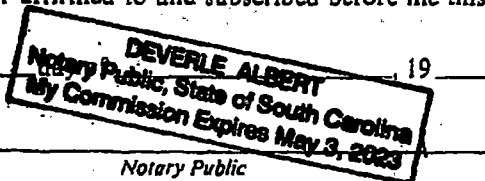
I, Vincent Jermaine Rice, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (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 therefor.

Vincent Rice

Applicant

SWORN or affirmed to and subscribed before me this _____



My Commission Expires _____

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
Vincent Rice, #316178	)	
	)	2014-CP-40-01246
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent, making its Return to the application for post-conviction relief filed February 26, 2014, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted during the March 2012 term of the Richland County Grand Jury for Possession with Intent to Distribute Marijuana, 3rd / Subsequent Offense (2012-GS-40-00888), Possession/Attempt to Possess Crack Cocaine – 3rd & Subsequent Offense (2012-GS-40-00889), Possession of Schedule I – V Controlled Substance – 2nd or Subsequent Offense (2012-GS-40-00890), and Possession with Intent to Distribute Cocaine, 3rd / Subsequent Offense (2012-GS-40-00891). Applicant was indicted during the July 2012 term of the Richland County Grand Jury for Possession with Intent to Distribute Marijuana within Proximity of a School or Park (2012-GS-40-02680) and Possession with Intent to Distribute Cocaine within Proximity of a School or Park (2012-GS-40-02681), and during the April 2012 term for Possession with Intent to Distribute Marijuana (2012-GS-40-01613), Possession with Intent to Distribute Cocaine (2012-GS-40-01614), Possession of a Schedule I – V Drug (2012-GS-40-01616). Applicant was represented by Mathias G.

Chapman, Esquire. On December 3, 2013, Applicant appeared before the Honorable DeAndrea G. Benjamin, where he pled guilty as indicted pursuant to Alford. Judge Benjamin sentenced Applicant to seven years for Possession with Intent to Distribute Marijuana, 3rd / Subsequent Offense, seven years for Possession/Attempt to Possess Crack Cocaine – 3rd & Subsequent Offense, two years for Possession of Schedule I – V Controlled Substance – 2nd or Subsequent Offense, seven years for Possession with Intent to Distribute Cocaine, 3rd / Subsequent Offense, seven years for Possession with Intent to Distribute Marijuana within Proximity of a School or Park, seven years for Possession with Intent to Distribute Cocaine within Proximity of a School or Park, seven years for Possession with Intent to Distribute Marijuana, seven years for Possession with Intent to Distribute Cocaine, and two years for Possession of a Schedule I – V Drug, with the sentences to be served concurrently.

Counsel filed a notice of appeal at Applicant' s request. The South Carolina Court of Appeals dismissed Applicant' s appeal for failure to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv), SCACR. The Remittitur was sent on March 19, 2014.

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

II.

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

1. “ Ineffective Assistance of Counsel;”

2. " Insufficient Chain of Custody/Insufficient Evidence;" and
3. " Defective and Invalid Indictments (Lack of Due Process) and Subject Matter Jurisdiction."

Any claims not specifically enumerated in the application or amendments made by counsel of record will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code § 17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing

Strickland. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel raises questions of fact that 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.

Applicant alleges a lack of subject matter jurisdiction. Defects in the indictment do not affect subject matter jurisdiction. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); See also U.S. v. Cotton, 535 U.S. 625 (2002). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). See also S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a particular class of cases, and it has nothing to do with the indictment document. See Gentry, 363 S.C. 93, 610 S.E.2d 494; Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994).

In post-conviction relief, an applicant wishing to raise challenges to the sufficiency of an indictment must do so in the context of ineffective assistance of counsel, basically alleging his trial counsel failed to properly move to quash the indictment in accordance with S.C. Code Ann.

§ 17-19-90 (2003). A claim of this nature is subject to the procedural bars in the Uniform Post-Conviction Procedure Act — notably the statute of limitations and successiveness. See S.C. Code § § 17-27-45, -90 (2003).

An applicant may still challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001), overruled in part by Gentry, 363 S.C. 93, 640 S.E.2d 494. However, “ [c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.” Gentry, 363 S.C. at 101, 610 S.E.2d at 499; See also S.C. Const. Art. V., § 7. Thus, Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Applicant’ s conviction involved a criminal charge in General Sessions Court. Thus, the circuit court had subject matter jurisdiction.

V.

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

VI.

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

Signature block to follow

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

By: 
for ATTORNEYS FOR RESPONDENT

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

June 24, 2014

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

2014-CP-40-01246

VINCENT RICE, #316178

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,
Respondent.

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

Jonathan Waller, Esquire
The Law Office of Jonathan Waller, LLC
1720 Main Street, Suite 104
Columbia, South Carolina 29201

DATED this 24th day of June, 2014.


Kelly Oppenheimer, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA

2 COUNTY OF RICHLAND

CIRCUIT COURT
2014-CP-40-01246

3
4 VINCENT RICE,
Applicant,

5 -vs-

TRANSCRIPT OF RECORD

6
7 STATE OF SOUTH CAROLINA,
Respondent.

8
9
10 Post-Conviction Relief Hearing

11 Heard on Wednesday, August 26, 2015

12 Columbia, South Carolina

13
14 BEFORE:

15 THE HONORABLE TANYA A. GEE

16
17 APPEARANCES:

18 Counsel on Behalf of the Applicant:
Jonathan D. Waller, Esq.

19
20 Counsel on Behalf of the Respondent, State of SC:
J. Clayton Mitchell, Esq.

21
22
23 Cheri L. Young, RPR
Circuit Court Reporter
24 P O Box 5232
Aiken, SC 29803-5232
25

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1 ON WEDNESDAY, AUGUST 26, 2015 AT 9:58 A.M.:

2 MR. MITCHELL: Your Honor, may it please
3 the Court.

4 THE COURT: Yes, sir.

5 MR. MITCHELL: This is Vincent Rice versus
6 the State of South Carolina, 2014-CP-40-1246.
7 Mr. Rice was indicted and pled guilty to nine
8 separate drug offenses. I'll go through them
9 fairly quickly.

10 He has a possession with intent to
11 distribute marijuana. I note that he pled guilty
12 before --

13 THE COURT: Judge Benjamin.

14 MR. MITCHELL: Yeah, Judge Benjamin.
15 Excuse me.

16 So on possession with intent to distribute
17 marijuana seven years; possession of crack
18 cocaine third or subsequent, seven years;
19 possession of schedule one through five, second
20 or subsequent, two years; possession with intent
21 to distribute third or subsequent, seven years;
22 possession with intent to distribute marijuana,
23 seven years; possession with intent to distribute
24 cocaine, seven years; possession of a schedule
25 one through five drug, two years; possession with

1 intent to distribute marijuana within the
2 proximity of a school, seven years; possession
3 with intent to distribute cocaine within
4 proximity of a school, seven years.

5 Mr. Rice did not appeal that sentence
6 there. He's filed -- oh, he did file.

7 THE COURT: He did appeal. That was
8 dismissed.

9 MR. MITCHELL: I'm sorry. He's filed this
10 application for post-conviction relief February
11 26 of 2014. He's represented by Mr. Waller.

12 Mr. Waller has some amendments on this case
13 and I'll let him articulate those.

14 THE COURT: Okay. All right. Mr. Waller,
15 I'll hear from you.

16 MR. WALLER: Thank you, Your Honor.

17 And Mr. Mitchell has been aware of these
18 amendments and grounds for sometime now. I don't
19 think it's any surprise to him.

20 But just for the record, Mr. Rice is
21 raising claims of ineffective assistance of
22 counsel under the involuntary guilty plea theory
23 for several reasons.

24 The first being Mr. Chaplin did not review
25 the drug analysis with him in these nine cases.

1 He did not give him an opportunity to challenge a
2 gap in the chain of custody on the marijuana
3 charges, did not give him the opportunity to
4 challenge the weight of some of the powder that
5 was, after testing was below the threshold
6 weight.

7 Additionally that would go to one of the
8 proximity charges. He did not challenge the fact
9 that he was indicted for cocaine base and was
10 actually cocaine powder, cocaine powder after the
11 drug analysis.

12 THE COURT: Will you say that one, the last
13 one? No opportunity to challenge what?

14 MR. WALLER: He was indicted for cocaine
15 base, crack cocaine. And the drug analysis came
16 back that it was actually cocaine powder under
17 the 44-53-370 statute instead of 375.

18 THE COURT: Okay.

19 MR. WALLER: Mr. Chaplin failed to object
20 to two of his sentences, the possession of
21 controlled substance, schedule one through four.
22 He, Mr. Rice was sentenced to two years on each
23 of those. The maximum allowed by statute was one
24 year on each of those.

25 Mr. Chaplin failed to challenge the intent

1 to distribute first possession inference or
2 failed to give Mr. Rice the opportunity to
3 challenge that and did not convey the full
4 details of the State's initial plea offer to him.

5 Additionally, Mr. Chaplin informed Mr. Rice
6 that the charges were all 65 percent and induced
7 him to plead by telling him that his prior drug
8 convictions would be made known to the jury
9 should he go to trial.

10 THE COURT: Okay. One of your arguments
11 was he did not convey full details of the
12 consequences of the guilty plea. What did you
13 say about that?

14 MR. WALLER: The full details of the plea
15 offer.

16 THE COURT: Of the plea offer?

17 MR. WALLER: Yes, ma'am.

18 THE COURT: All right. You may call your
19 first witness.

20 MR. WALLER: Thank you, Your Honor. I
21 would call Vincent Rice.

22 VINCENT RICE, having been duly sworn, was
23 examined and testified as follows:

24 THE BAILIFF: Take a seat and spell your
25 last name.

VINCENT RICE - DIRECT BY WALLER

1 THE APPLICANT: My last name is Rice,
2 R-I-C-E.

3 DIRECT EXAMINATION

4 BY MR. WALLER:

5 Q. Good morning, Mr. Rice. How are you today?

6 A. I'm doing well.

7 Q. Mr. Rice, how old are you?

8 A. Thirty-three.

9 Q. Where are you from?

10 A. I'm from Eastover, South Carolina.

11 Q. Okay. And how long have you lived in the Columbia
12 area?

13 A. All my life.

14 Q. Okay. You pled guilty to nine drug offenses; is
15 that correct?

16 A. That's correct.

17 Q. Those two -- those nine charges, they weren't from
18 the same incident though?

19 A. No, they weren't.

20 Q. Okay. How many incidents were they from?

21 A. Two.

22 Q. Okay. When were you arrested on the first one?

23 A. December 2011.

24 Q. Okay. And were you able to make bond, or?

25 A. I made bond.

VINCENT RICE - DIRECT BY WALLER

1 Q. Okay. When were you arrested on the second one?
2 A. January 25th, 2012.
3 Q. Okay. So relatively close in time?
4 A. Yes.
5 Q. Who arrested you on the first set of charges?
6 A. As far as jurisdiction?
7 Q. Yeah. What police agency?
8 A. Columbia Police Department.
9 Q. Okay. How about the second charges?
10 A. USC.
11 Q. Okay. Do you recall, and I know there's nine of
12 them, do you recall which charges were arrested -- you
13 were arrested for by City of Columbia?
14 A. I believe so. It was possession of cocaine, PWID
15 the third, PWID marijuana the third, possession of
16 controlled substance, possession of crack cocaine. And I
17 think that's it.
18 Q. Okay. So you had four from the City of Columbia?
19 A. Yes.
20 Q. Okay. And you had five from USC?
21 A. (Nods head.)
22 Q. Okay. How did Mr. Chaplin come to be your
23 attorney?
24 A. Mr. Chaplin came to be my attorney after one of my
25 public defenders had relieved himself from my case and he

VINCENT RICE - DIRECT BY WALLER

1 was appointed. He was appointed by the Court.

2 Q. Okay. Were you locked up or did you make bond?

3 A. I was still incarcerated.

4 Q. So you were locked up after the second set of
5 charges?

6 A. Yes.

7 Q. Okay. Do you recall when Mr. Chaplin was appointed
8 to represent you?

9 A. Yes, I do. Mr. Chaplin was appointed to represent
10 me in October of 2012.

11 Q. Okay. How many times did you meet with
12 Mr. Chaplin?

13 A. I met with Mr. Chaplin three times.

14 Q. Okay. Do you recall when, not exact dates but, you
15 know, kind of over the course of his representation about
16 when those were?

17 A. I know the exact dates actually.

18 Q. Okay.

19 A. The first time I saw Mr. Chaplin was on August the
20 12th, 2013, nearly a year later. It was in the
21 courthouse here. And the next time after that was
22 September 19th. It was also in the courthouse. And
23 after that it was October the 17th, and that was also in
24 the courthouse.

25 Q. Okay. Why did y'all meet in the courthouse?

VINCENT RICE - DIRECT BY WALLER

1 A. Well, so he convinced me to plead guilty to the
2 charges basically.

3 Q. And you were locked up the whole time?

4 A. Yes.

5 Q. So you were transported over to the courthouse by
6 the Alvin S. Glenn Detention Center?

7 A. Yes.

8 Q. When y'all met, what did y'all talk about?

9 A. Upon our first meeting he basically told me he was
10 trying to convince me to plead to the five years. And
11 he -- this was on the October, I mean, August 12th. He
12 basically told me that I was aware that I had prior
13 charges as far as possession, that I have a record of
14 drugs, you know. And he kind of insinuated for me to
15 plead to the charges and get it over with. That's what
16 we talked about the first meeting. We didn't really talk
17 about the case as far as the real details or the
18 incident.

19 Q. Okay. And when you say incident, you mean each
20 incident?

21 A. Right.

22 Q. About how long after Mr. Chaplin was appointed to
23 represent you did you first meet with him?

24 A. I met with him, he was appointed October 2012. And
25 I met with him in the courthouse in August.

VINCENT RICE - DIRECT BY WALLER

1 Q. So about 10 months?

2 A. Right. Now I want to say this to be clear now. I
3 came because the Court re-indicted me, like, did a direct
4 presentment. And he was there that day. We didn't
5 talk. He was just there and said we would speak again.
6 So I didn't actually get a chance to speak with him about
7 my case that day.

8 Q. That was in August?

9 A. That was -- that was the month before August of
10 2013. But the first time I actually met him was nearly a
11 year later. He was appointed in October 2012 and I met
12 him in August 2013.

13 Q. Okay. So, you were brought to the Court for an
14 arraignment; is that correct?

15 A. I guess. I don't know the term but, yeah, it was a
16 direct presentment but they did serve me the warrants.
17 That's all they did and I went back to the institution.

18 Q. Okay. Now, you had nine charges and a couple of
19 them repeated themselves. But, did you and Mr. Chaplin
20 discuss the elements of each of the different charges
21 that you had?

22 A. We did not.

23 Q. Okay. Did y'all discuss the potential penalties of
24 each of the charges that you had?

25 A. Absolutely not, no penalties.

VINCENT RICE - DIRECT BY WALLER

1 Q. And several -- you do have a prior drug record; is
2 that correct?

3 A. I do.

4 Q. Okay. So several of your charges were second
5 offenses or third offenses; is that right?

6 A. Yes.

7 Q. Okay. Did Mr. Chaplin explain that drug offenses
8 are graduated in that they -- repeat offenders can
9 potentially have a longer sentence?

10 A. He, he, he -- to a certain extent. He didn't say
11 anything as far as a longer sentence but he, he kind of
12 spoke on the enhancement, you know what I'm saying, as
13 far as me having a priors of drugs.

14 Q. I want to talk a little bit about the drug analysis
15 that was done in each of your cases, did you and
16 Mr. Chaplin discuss that?

17 A. The drug analysis?

18 Q. Yes, sir.

19 A. The drug analysis was kind of a topic of contention
20 between us because on August 12th, when he was basically
21 trying to persuade me to plead for the first time I
22 brought it to his attention that the analysis was missing
23 from the discovery evidence. And he was unaware of it.
24 He didn't even know it was missing at that time.

25 Q. What analysis are you talking about, for which

VINCENT RICE - DIRECT BY WALLER

1 incident?

2 A. Well, from both of the incidents. It was both of
3 the incidents.

4 Q. Okay. So 10 months after Mr. Chaplin was appointed
5 to represent you, you had not received or seen -- you
6 hadn't seen the drug analysis for either?

7 A. I didn't.

8 Q. When was the first time you did see that?

9 A. The first time I saw analysis was, he brought a
10 portion of it -- I want to be (looking through records).
11 Okay. I'll say maybe around approximately August 15th he
12 mailed me a letter on the, a portion of one of the
13 incidents of the analysis.

14 Q. Okay. Do you recall which one that was?

15 A. Yes. That was from the City of Columbia.

16 Q. The City of Columbia. Okay.

17 A. I have it right here. I mean --

18 Q. What did you and Mr. Chaplin talk about the City of
19 Columbia drug analysis?

20 A. We didn't talk about it much because he mailed me
21 this. He mailed me this one after we spoke on August the
22 12th. And he sent me a letter with this right here in
23 there, and --

24 Q. Okay. Did it contain the chain of custody from the
25 City of Columbia?

VINCENT RICE - DIRECT BY WALLER

- 1 A. No, it didn't.
- 2 Q. Okay. Have you ever seen the chain of custody
3 documents from the City of Columbia?
- 4 A. I saw it once I appealed. When I appealed the
5 City -- when he gave me the file, the appeal file, I saw
6 it in that.
- 7 Q. Who gave you the file?
- 8 A. Mr. Chaplin hand-delivered it to me.
- 9 Q. Okay. So there were City of Columbia documents in
10 your file that were provided to you by Mr. Chaplin?
- 11 A. Right.
- 12 Q. Okay. I'm going to show you what's been marked as
13 Plaintiff's Exhibit One, Applicant's Exhibit One, and ask
14 if you recognize that document?
- 15 A. This document right here?
- 16 Q. Yeah. Do you recognize that? Have you ever seen
17 it before?
- 18 A. This is the first time I've ever seen it.
- 19 Q. You testified a minute ago that you received the
20 City of Columbia drug analysis chain of custody from
21 Mr. Chaplin; is that correct?
- 22 A. Right.
- 23 Q. The document I just handed you is not that?
- 24 A. It's not, no.
- 25 Q. Okay. When did you first receive any documentation

VINCENT RICE - DIRECT BY WALLER

1 as to the other incident, the drug analysis from the
2 other incident?

3 A. Upon our last visit in October, October 17th.
4 That's the first time I saw those analysis, nearly two
5 years later after the incident.

6 Q. Okay. I'm going to show you what's been marked as
7 Plaintiff's Exhibit Two, Applicant's Exhibit Two, and ask
8 if you recognize that document.

9 A. Yes, I recognize this document.

10 Q. Okay. How did you receive a copy of that document?

11 A. Mr. Chaplin handed it to me when I saw him in
12 October, 2013.

13 Q. Okay. Did y'all discuss this document?

14 A. We had no discussion about the document, no.

15 Q. Okay. What's your understanding of what this
16 document is?

17 A. At the time when I received it?

18 Q. Yes.

19 A. Well, at the time I received it I didn't initially
20 grasp what it meant, you know. I went looking, I just
21 looked through it, you know. And he gave it to me with
22 his head down. I asked him one or two questions and he
23 gave me a one-word answer. And, you know, I didn't know
24 what to make of it at that time.

25 Q. What do you recognize it to be now?

VINCENT RICE - DIRECT BY WALLER

1 A. Now, it's -- according to the State of South
2 Carolina, it's a valid laboratory analysis from a
3 certified chemist.

4 Q. Okay. And you received that from Mr. Chaplin as
5 part of your file?

6 A. Yes.

7 MR. WALLER: Your Honor, at this time I'll
8 move to admit Applicant's Exhibit Two.

9 THE COURT: Okay. It's so entered.

10 MR. MITCHELL: Your Honor, it's hearsay and
11 it's not something that he created himself. He's
12 maybe familiar with it, he's seen it, but I don't
13 think the proper foundation's been laid. But he
14 can authenticate that, most importantly.

15 THE COURT: Well for the purposes for which
16 he testified that this is the document he
17 received from his attorney that he believed to be
18 a lab analysis from the chemist, I'm going to
19 allow it into evidence. Thank you.

20 MR. WALLER: Thank you.

21 (Applicant's Exhibit No. 2, SLED forensic
22 lab report, received into evidence.)

23 BY MR. WALLER:

24 Q. Mr. Rice, you were convicted for PWID cocaine
25 charge; is that correct?

VINCENT RICE - DIRECT BY WALLER

1 A. Yes.

2 Q. Did you and Mr. Chaplin discuss the possibility
3 that you were just possessing those drugs?

4 A. No, we didn't discuss the possession.

5 Q. Okay. What was your discussion about how you were
6 charged with PWID?

7 A. The main thing with the discussion when it came to
8 that because it was, it was a miscommunication. On my
9 prior conviction, he repeatedly told me that, okay, "you
10 understand that you have priors."

11 And it was hard for me to understand how I was
12 being charged with PWID third and I never was charged
13 with a first. So he, he -- as far as that crime, he was
14 just telling me you have priors. So eventually I took on
15 the understanding that my priors had, had things to do
16 with me being charged with PWID.

17 Q. Okay. You were indicted for PWID cocaine; is that
18 correct?

19 A. That's correct.

20 Q. And your indictment was based on the weight. Is
21 that your understanding, the amount that they said you
22 possessed?

23 A. Not, not actually. So I didn't understand the
24 indictment because it was -- it had so many wordings on
25 it. I'm not sure --

VINCENT RICE - DIRECT BY WALLER

1 Q. Okay.

2 A. -- what they based it on.

3 Q. Did you and Mr. Chaplin discuss the weight that you
4 were indicted for?

5 A. No, we didn't discuss the weight because the
6 analysis was missing more than half the time I saw him.
7 We didn't -- you know, our discussions was he needs to
8 get the analysis in the first place. And he, you know,
9 when I got the analysis it was time -- the deal was off
10 the table. It was time for me to go to trial.

11 Q. Okay. Once you did get the analysis, what did
12 y'all talk about, the actual analysis and about the
13 weights that had come back?

14 A. When we -- when he gave me the analysis we didn't
15 go over the weights because I repeatedly told him that I
16 wanted to see the analysis because I told him that I
17 wasn't guilty for all these charges. And, you know, he
18 said, "Well, if you pursue the analysis then the deal's
19 going to be off the table."

20 So, once I got the analysis he just gave it to me
21 and the deal was off the table. We didn't, we didn't go
22 over it together.

23 Q. Okay. Were the drugs that were tested -- to the
24 best of your knowledge, were they tested before or after
25 you were indicted?

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1 A. I would, I would say after.

2 Q. Okay.

3 A. Definitely after.

4 Q. Did you and Mr. Chaplin discuss that?

5 A. No, we never discussed that.

6 Q. Okay. Did you and Mr. Chaplin discuss getting
7 ready to go to trial?

8 A. (Makes noise.) No, we didn't.

9 Q. Okay. Did he ever explain to you the procedures
10 that would take place if you went to trial?

11 A. No, he didn't.

12 Q. Okay. Did he ever explain to you your right to a
13 jury trial?

14 A. Well, he explained my right. I want to be clear
15 with that. Can you ask me that last question, please, so
16 I can --

17 Q. Did he go over your constitutional rights with you?

18 A. I don't remember him going over my constitutional
19 rights.

20 Q. Do you recall him informing you that you have a
21 constitutional right to a trial by jury?

22 A. I don't remember.

23 Q. Okay. Did you and Mr. Chaplin discuss lesser-
24 included offenses of what you were charged with?

25 A. We never discussed about lesser-included offenses.

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1 I never heard of such a thing until after I was
2 convicted.

3 Q. Okay. Did you talk about trial?

4 A. We didn't talk about trial until the day it was my
5 trial, the day of my trial.

6 Q. Okay. Did y'all prepare for trial?

7 A. No, I didn't even know I was going to trial until I
8 was transported to court.

9 Q. Okay. You were transported to court. What did you
10 think you were going to court for?

11 A. I don't know. I mean, because now I had, I had a
12 bond revocation hearing and the Judge did say she wanted,
13 she wanted this case concluded within 120 days. So I
14 didn't know how the conclusion was going about. When I
15 got to court they was preparing me for, it was my trial.

16 Q. Okay. What happened when you got to court that
17 day? What was going on?

18 A. When I got to court, I sat in the tank. I didn't
19 know what I was here for. Mr. Chaplin came and saw me
20 maybe around, it was close to one o'clock or something
21 like that. And my trial was going to start in 20
22 minutes. When he came in he told me it was my trial day
23 and that immediately made me, you know, I was nervous
24 because I didn't know what was going on.

25 And I asked him what was, like, the legal

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1 challenges, how we was going to go about the trial. And
2 Mr. Chaplin said he didn't have to tell me his legal
3 strategy because he was a professional lawyer. I asked
4 him was there any valid legal challenges. He said no,
5 you know.

6 So I didn't know what -- to go into trial, I wasn't
7 confident going into trial with him because he wouldn't
8 even share what his strategy would be in trial. He said,
9 "I don't need you to prepare." He said, "I'm a
10 professional attorney. I didn't need you to prepare a
11 trial."

12 Q. Okay. Had you and Mr. Chaplin discussed the
13 incident and -- each of the incidents itself?

14 A. For the actual incidents, the date they occurred?

15 Q. Yes.

16 A. He vaguely -- once, once -- that's August 12th. He
17 asked me maybe a total of five questions. He didn't, you
18 know, didn't seem too interested in the details from my
19 point of view.

20 Like, he read out the incident report but he didn't
21 really ask questions, get any details. It was -- from
22 the beginning it was a situation from the first day he
23 brought me into court was to plead, you know, without
24 going over any mitigating evidence or favorable evidence
25 or possible challenges. We never, you know, we never

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1 went through that, you know. He told me that I might as
2 well take the plea and go to jail because I'm going to be
3 doing nothing else.

4 Q. Okay. You were arrested asleep in your car for the
5 first incident; is that right?

6 A. That's correct.

7 Q. Okay. And you were arrested at the USC library the
8 second time; is that right?

9 A. That's correct.

10 Q. Did you and Mr. Chaplin ever talk about the
11 circumstances surrounding you getting arrested?

12 A. We talked about the circumstances surrounding the
13 car the most, you know what I'm saying, because that
14 incident, I told him that those drugs weren't even mine
15 because the vehicle was not mine that I passed out in the
16 car going to the store after a night -- you know, we was
17 at a party. And we talked about that the most.

18 And his, his take on that was basically like,
19 "Well, you know, the officer's saying he found the drugs
20 in your lap and you, you wouldn't win that case, you
21 know."

22 And that was his thing on that. He was, like,
23 well -- I was, like, maybe I could plead for a charge.
24 And he was, like, "Well, you can't say that you're not
25 guilty of that charge and this charge." He wouldn't let

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1 me separate them, you know.

2 So, we talked about that case the most.

3 Q. Okay. And I believe you testified earlier that you
4 have a prior drug record?

5 A. I do.

6 Q. Okay. Did y'all talk about how your prior drug
7 record might affect a trial?

8 A. Well, from my take on it, from my understanding he
9 was telling me that my priors would ensure my
10 conviction. It was my understanding that day that my
11 trial was set when I was brought to court, he was letting
12 me know, like -- and even during the times I saw him he
13 just kept going, like, drilling me on that. Like,
14 this -- you have a drug possession and he was basically
15 telling me that that would ensure my conviction to the
16 point that I understood that well, you know what I'm
17 saying, there's nothing I could change with my priors.
18 So.

19 Q. Okay. What did he say -- what did he tell you
20 regarding your priors and how would that ensure your
21 conviction?

22 A. Who would believe me. Who would believe me, you
23 know what I'm saying, because I already have a history of
24 drug possession. Basically he said those exact words;
25 who would believe me.

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1 Q. Did you and Mr. Chaplin discuss what a jury would
2 and would not be allowed to know about your past history?

3 A. I don't remember because, once again, I didn't even
4 know my trial was coming. So we had no time to prepare
5 for a trial. He never told me, you know what I'm saying,
6 on that particular day he was like, well, your drug, your
7 priors will come up, you know.

8 Q. Okay. Did he explain how your priors would come
9 up?

10 A. No. Oh, oh, oh. I'm sorry. I'm sorry. Pardon
11 me, sir. If I get on the stand, I think.

12 Q. Okay. You pled guilty and received seven years on
13 seven of the nine charges; is that right?

14 A. That's correct.

15 Q. And that was an offer from the State?

16 A. Yes.

17 Q. Okay. Was that the first offer that you had?

18 A. Seven years?

19 Q. Yes.

20 A. Well, they offered me five years.

21 Q. Okay. How did you know you'd been offered five
22 years?

23 A. Mr. Chaplin told me when -- August 12th he told me
24 five years.

25 Q. Okay. Let me show you what's been marked for ID

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1 purposes as Plaintiff's Exhibit Three and ask if you
2 recognize that.

3 A. Yes. I recognize this. I'm familiar with this.

4 Q. Okay. What is that document?

5 A. This is the letter that Mr. Chaplin sent me the
6 day, it's dated August 12th. This is the day I saw him
7 in court. This is the letter he mailed to me. I
8 received it a couple days later.

9 Q. Okay. What -- have you received other documents
10 from Mr. Chaplin, other letters?

11 A. I've received one other letter from Mr. Chaplin.

12 Q. Okay. Do you recognize that document as a letter
13 from Mr. Chaplin?

14 A. Yes.

15 MR. WALLER: Your Honor, at this time I
16 move to admit the letter as Plaintiff's Exhibit
17 Three.

18 THE COURT: Any objection?

19 MR. MITCHELL: No objection to that.

20 THE COURT: All right. It's so admitted.

21 (Applicant's Exhibit No. 3, letter,
22 received into evidence.)

23 BY MR. WALLER:

24 Q. Mr. Rice, the -- what does that letter say about
25 any offer?

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1 A. The letter said their offer at this time is a
2 negotiated five years.

3 Q. Okay. PWID cocaine as you were originally charged
4 for the third offense carries a minimum of 10 years. How
5 did Mr. Chaplin explain that you were going to get five
6 years under that offer?

7 A. He did no explanation. Mr. Chaplin told me five
8 years. No -- I never knew the whole entire time of this
9 process, I didn't know the minimums, maximums, anything.
10 He told me five years.

11 Q. Okay. Did y'all discuss any reductions in
12 charges --

13 A. No.

14 Q. -- as part of that offer?

15 A. Nothing.

16 Q. Okay. Did y'all discuss the two- and three-strike
17 rule?

18 A. First time I heard it is when the Judge said it
19 during the plea.

20 Q. Okay. Did y'all discuss that some of the charges
21 as you were charged would be strikes?

22 A. First time I heard that was during the plea.

23 Q. Okay. Did you and Mr. Chaplin discuss anything
24 else about that initial offer other than it was for a
25 negotiated five years?

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1 A. That's it. Five years. The only thing when he
2 told me about the five years I wouldn't, you know, I
3 wouldn't've taken the five years but the analysis wasn't
4 present. He was telling me it was inactive. The first
5 time he said, "Well the five years was inactive," which
6 meant that the time I had done wouldn't have counted for
7 the time served.

8 And the only thing that changed during the whole
9 time he was trying to get me to accept the five years he
10 told me, "okay, they're willing to make it active." I
11 guess, active with my sentence. That's the only
12 difference he told me of five years. He never mentioned
13 a dismissal or minimums or maximums. The State had
14 mentioned that during the plea hearing.

15 Q. Okay.

16 A. In other words, he didn't fully inform me of the
17 significance of the five years.

18 Q. Mr. Rice, I've asked you all the questions that I
19 have. Is there anything that you think I've left out
20 that the Court needs to be aware of about Mr. Chaplin's
21 representation of you?

22 A. Yes. There are some things I would like to add as
23 far as Mr. Chaplin's representation.

24 First off, he didn't take this case serious is what
25 I detected from Mr. Chaplin. And my suspicion was raised

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1 for the first time when he didn't know that the drug
2 analysis was missing from the discovery evidence and he
3 was convincing me to plead.

4 And after the fact, you know, now, from learning my
5 case outside of the court, I was faced with a lot of time
6 that I never knew was that serious because he didn't
7 inform me of this.

8 Mr. Chaplin was very reluctant to get a drug
9 analysis. When I asked him about it he said, "Well, you
10 don't think the drugs are real?" You know, and he
11 pretty much put pressure on me not to pursue the analysis
12 because a trial would occur from that.

13 Let me make sure I don't miss anything. (Reviewing
14 documents.)

15 There's other disturbing things about Mr. Chaplin's
16 performance that was not constitutionally sixth amendment
17 guaranteed representation. I tried to get Mr. Chaplin
18 relieved from my case because when I met with him on
19 September 19th, there was some contention because he told
20 me that I don't need to get out of prison because I would
21 just F up. You know, and he's saying that I needed to do
22 years in prison, that's the only way to get my life
23 together.

24 And I took that as a red flag. And I told him I
25 didn't want him on my case. And I tried to get him

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1 relieved from -- as my counsel with my same Judge who was
2 on my plea. She wouldn't relieve him. You know, I
3 expressed these things to her.

4 MR. MITCHELL: Objection, Your Honor.
5 We're getting a bit of a narrative here.

6 THE COURT: Okay. I am going to allow him
7 to tell me the complaints that he has against his
8 lawyer. So I'm going to allow him to continue..
9 Thank you.

10 THE APPLICANT: Thank you, Your Honor.
11 Thank you.

12 MR. WALLER: Thank you, Your Honor.

13 THE APPLICANT: Now at the time -- I would
14 like to be clear for the Court. During the time
15 I was transported to court between August and
16 October, there was an incident; my institution
17 was in riots. So I had no access to the law
18 library. They restricted that. So everything
19 that I was -- the information about my case I was
20 completely dependent on Mr. Chaplin. And he was
21 very unwilling to -- he never -- once I asked him
22 about the indictment.

23 I had the indictment with me and I didn't
24 understand it because of the wording. It was all
25 of this -- I didn't understand the nature of it.

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1 And his explanation to me was they make it broad
2 as a -- to put a barn through it just to ensure a
3 conviction. That didn't satisfy my curiosity of
4 what this indictment meant. He was unwilling to
5 explain to me -- it was a couple of times he
6 answered his iPhone right in my face during my
7 meeting.

8 So I knew he didn't -- he also told me that
9 when I was transported for the trial that day,
10 okay, when I was transported for the trial that I
11 didn't know about, he came maybe with 15 minutes
12 left. It was, it was a rush situation. And, he
13 told me that, all right, "Listen, you're not fit
14 to do a lot of time because there's certain
15 pressures you're going to yield to in prison."

16 So I was still debating about going to
17 trial because I knew in my gut I wasn't guilty of
18 these charges but he told me I had no valid legal
19 challenges, you know what I'm saying, and so I
20 was still trying to consider what was, I was
21 going to do.

22 And he went on -- while I was trying to
23 make up my mind and I was trying to take all of
24 this in, he was using a bit of unfair persuasion
25 at this time. He told me that he just left out

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1 of the Judge chambers, she doesn't think that my
2 case was a big deal because it was some weed and
3 some powder, that I could expect to get five
4 years.

5 Basically during that trial or the day of
6 my plea I didn't have enough information about
7 my, the elements of my case. He didn't explain
8 to me what PWID was. He mainly during the course
9 of our meetings he was explaining the
10 enhancements and the drug analysis. That's the
11 majority of what we always talked about.

12 All right. And --

13 BY MR. WALLER:

14 Q. Mr. Rice, let me stop you right there and ask you a
15 couple questions from some things you've mentioned. You
16 mentioned looking at an indictment and not understanding
17 the indictment. In one of your indictments -- were you
18 indicted for crack cocaine, cocaine base?

19 A. Yes.

20 Q. Okay. Is it your understanding that when the drugs
21 were analyzed it came back cocaine base or did it come
22 back something else?

23 A. It came back as something else.

24 Q. Okay. Did you and Mr. Chaplin ever discuss -- do
25 you know what it came back as?

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1 A. It came back as, it came back as crack cocaine.
2 From -- initially from the warrant it was cocaine, from
3 the warrant it was cocaine, then it was indicted for
4 cocaine but I was convicted of crack cocaine.

5 Q. Okay. Did you and Mr. Chaplin ever discuss the
6 difference?

7 A. No, we didn't. We never discussed the difference
8 or any analysis because that was, the analysis was
9 missing for the majority of my case.

10 Q. Okay. When you plead guilty what -- prior to you
11 pleading guilty, what did you and Mr. Chaplin discuss as
12 far as the percentage of time you would have to do?

13 A. First he told me that I would do 65 percent, you
14 know, because this was, I think this was a part of undue
15 persuasion. He was, like, "You'll do 65. You can expect
16 to get the five years. I talked to the Judge," or
17 "You're going in front of Judge Lee." And that changed
18 at the last minute, like, "No, you're not going in front
19 of Judge Lee because she's not even doing pleas today."
20 Came to find out she was.

21 And I also wanted to add as far as the unfair
22 persuasion, Mr. Chaplin told me that Mr. Muller was
23 upstairs waiting to testify on me. I had found out since
24 then that that's fictitious. There was no Mr. Muller up
25 there to testify on me on my trial. It was just part of

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1 a persuasion technique.

2 And also as far as this drug analysis right here,
3 this -- I got this in my appeal file after I pled
4 guilty. This is the first time I saw this because this
5 was missing from the chain of custody. And me and him
6 never went over this because this was not present.

7 Q. Okay. What is that document?

8 A. This is a document -- I don't even know if it's
9 valid but this is a document I received from him when he
10 handed it over saying about the marijuana.

11 Q. Okay.

12 A. Thirteen grams. And it's very contradictive to
13 what's in the warrants. It's very inconsistent.

14 Q. Okay. So there's a difference in what you were
15 originally charged with and what --

16 A. Right.

17 Q. -- the analysis actually came back?

18 A. Right. It validated more proof that there is
19 evidence that I should have faced charges of lesser-
20 included offense. I learned that about, as far as the
21 possession charge and lesser-included offenses. That's
22 one thing that -- a big error I feel that Mr. Chaplin
23 made because I told him, I did tell him that I was a drug
24 addict, that I've never sought help.

25 And we went over this towards the end. And that's

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1 when he made statements as far as saying that, "You don't
2 deserve to get out. You need rehab. You need to go to
3 prison." He made these specific statements.

4 And, so but there was evidence along with the
5 weight amounts. This is the thing I've learned after my
6 conviction that Mr. Chaplin was unwilling to tell me
7 about, the information that I didn't have during my plea
8 or at my plea or understanding the actual nature of these
9 charges.

10 But, he advised me to plead to a drug dealer charge
11 but during the hearing he told the Judge that I'm
12 suffering from a disease of addiction.

13 Q. Okay. The solicitor actually mentioned that too;
14 is that correct?

15 A. That's correct.

16 Q. Okay. What does that -- the document that you just
17 had, what weight does it show?

18 A. It shows green leafy substance of 13.1 grams of
19 marijuana.

20 Q. And you pled guilty to a PWID?

21 A. Yes. PWID and PWID proximity.

22 Q. Mr. Rice, all the things we've been discussing, all
23 of the mistakes you allege Mr. Chaplin made, if he hadn't
24 made those mistakes would you have pled guilty or would
25 you have gone to trial?

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1 A. I would have went -- if I fully -- if Mr. Chaplin
2 had fully informed me of the first, for the time that I
3 was facing, first, life without parole and everything --
4 or, I want to say this first.

5 He, he at least should have first communicated the
6 five years dismissal of the charges to me because that's
7 a favorable plea. He didn't fully communicate with me,
8 first off, from that.

9 Because under the situation if I had fully
10 understand what I was facing, the maximum, and he had to
11 come and tell me not just five years, "listen, they're
12 willing to give you five years and dismiss all of these
13 strike charges." See, I didn't understand what a strike
14 charge of 17-45 until after my conviction. I studied
15 outside of the court and got an understanding what it
16 means.

17 So that's what the first deficiency that he prove
18 in my case. That at least prejudiced me right there that
19 he didn't communicate a favorable plea.

20 Now as it went along, you know, Mr. Chaplin didn't
21 give me the information necessary because I pled under
22 Alford under the impression that I would be found guilty
23 due to my priors. No, I wouldn't have pled guilty
24 because knowing now what I know, having the correct
25 information and understanding actually these analysis now

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1 that I have them, no, they couldn't convict me of PWID.
2 And, you know what I'm saying, even my statements during
3 the plea reflected, reflected that I wasn't guilty of the
4 elements of PWID.

5 Now I will also like to mention to the Court that
6 being that Mr. Chaplin didn't explain to me the legal
7 principles of PWID, when I got into court the Judge or
8 the State never read out what PWID means or the critical
9 elements under the 14th amendment of due process. And,
10 and that, as you know, that due process clause is the
11 defendant should understand how his conduct satisfies the
12 elements of the charged offense.

13 So not one time during my transcript or the plea
14 hearing did the Judge ask me did I understand the charges
15 against me. Not once.

16 Q. And had Mr. Chaplin gone over those charges with
17 you?

18 A. All Mr. Chaplin told me they was broad enough to
19 put a barn through it.

20 Q. So until you got sentenced and went to the
21 Department of Corrections you didn't understand the
22 actual charges?

23 A. I didn't know -- I just knew, I had a gut feeling
24 that I wasn't guilty of these charges, you know, and
25 that's why I had to study the law, you know, and find out

VINCENT RICE - DIRECT BY WALLER

1 what they mean.

2 And I wouldn't have -- I wouldn't have pled guilty
3 to these elements, these greater offenses, period.

4 Q. Okay.

5 Thank you, Mr. Rice. I have no further questions.

6 THE COURT: Okay.

7 MR. WALLER: Your Honor, may we approach
8 briefly?

9 THE COURT: Yes. Just one minute, then
10 we'll approach.

11 I just have a couple of questions for
12 Mr. Rice. And I know Mr. Mitchell that normally
13 it's time for your cross. But I just want to
14 make sure at this juncture.

15 Mr. Rice, you had mentioned that during the
16 guilty plea that you were not aware of the
17 consequences you were facing. And so I just want
18 to make sure that you understand post-conviction
19 relief applications and what the consequences are
20 depending on how I would rule on your
21 application.

22 So if I were to deny your application, then
23 you would go back and serve out the sentence you
24 received, a seven year and two-year sentence
25 concurrent. So you would finish off your

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1 sentence just, just as though this was never
2 filed.

3 THE APPLICANT: Uh-huh.

4 THE COURT: It's denied, you go back. If I
5 grant it you start from scratch. And that means
6 that any sort of reduction in your sentence, that
7 goes away. Any -- there's no longer a negotiated
8 plea. There's no longer a five-year minimum,
9 10-year maximum.

10 You could be facing the PWID cocaine third
11 offense which has a mandatory minimum of 10
12 years, no suspension. If the State were to allow
13 you to plead guilty to the very same charges that
14 you pled guilty to, you are facing 132 years.

15 I just want to make sure that you
16 understand the consequences of any success you
17 might receive on PCR. That doesn't mean that I
18 get to sentence you and say, "You know what, I
19 think he deserves five years and I'm going to
20 impose that sentence." All I would be saying is,
21 "All right, we're going to start over. We're
22 starting from scratch and you're back to facing
23 the PWID third offense, no reduction." Do you
24 understand that?

25 THE APPLICANT: I understand.

VINCENT RICE - CROSS BY MITCHELL

1 THE COURT: And do you still wish to go
2 forward with the post-conviction relief?

3 THE APPLICANT: Yes, I do.

4 THE COURT: I just wanted to make sure.
5 Thank you.

6 And y'all may approach.

7 MR. MITCHELL: Thank you, Your Honor.

8 (Off-the-record discussion.)

9 THE COURT: All right. Mr. Mitchell.

10 CROSS-EXAMINATION

11 BY MR. MITCHELL:

12 Q. Your Honor, may it please the Court. Good morning,
13 Mr. Rice.

14 A. Good morning, Mr. Mitchell.

15 Q. How are you doing?

16 A. I'm all right.

17 Q. All right. Let's see. Now, this was a negotiated
18 cap of 10, correct?

19 A. That's correct.

20 Q. Okay. So the most you could have gotten was 10
21 years, right?

22 A. Correct.

23 Q. And there was some -- now in these discussions you
24 had with Mr. Chaplin, you had some discussions about the
25 plea offers, right?

VINCENT RICE - CROSS BY MITCHELL

1 A. Right.

2 Q. So he told you that this was the cap and this is
3 the most you were going to get at that time, right? I
4 mean, that's the most possible, right?

5 A. Right.

6 Q. So he was going to argue for the lower half and the
7 State was probably going to argue for the higher, but; is
8 that your understanding?

9 A. That was the situation, yes.

10 Q. Okay. So, now this other plea offer, that was a
11 five-year offer, that was also negotiated, right?

12 A. Yes.

13 Q. The previous offer, right? And you rejected that?

14 A. The initial offer?

15 Q. The initial offer.

16 A. I didn't reject it because I wasn't fully, the
17 offer wasn't fully communicated to me.

18 Q. Okay. But he said five years negotiated?

19 A. Five years.

20 Q. Right. And then you said no?

21 A. No. Yes.

22 Q. Okay. Now your issue is that he didn't tell you
23 exactly what all of that entailed, right?

24 A. Right.

25 Q. But that would have been -- if you had accepted

VINCENT RICE - CROSS BY MITCHELL

1 that you would have had a chance of five-year cap or the
2 five years exactly, right?

3 A. If I had said yes.

4 Q. Okay. So you did reject that deal, right?

5 A. Initial, the initial five years?

6 Q. The initial, right.

7 A. Not knowingly. I didn't knowingly -- I didn't
8 fully know or understand what was the stipulations or, of
9 the deal.

10 Q. So you just didn't understand how every single
11 charge was going to work out?

12 A. Exactly.

13 Q. And it is a lot of charges, right?

14 A. It is.

15 Q. Now, this was also an Alford plea, right?

16 A. Yes.

17 Q. And you understood what that meant?

18 A. No, I didn't.

19 Q. Okay. But that -- Mr. Chaplin never advised you of
20 what that meant?

21 A. No, he didn't.

22 Q. Okay.

23 A. Mr. Chaplin told me about the Alford plea on the
24 day of my trial when I was considering the options, he --
25 that was, like, his last pitch. He said, "Or you can

VINCENT RICE - CROSS BY MITCHELL

1 plead under Alford which basically means that you didn't
2 do," and used the S word. So I took that as it must be
3 meant something positive for me to take an Alford plea.

4 Q. So it's just that you acknowledged the State could
5 prove the charges they had against you?

6 A. The PWID, yes.

7 Q. Right. And Judge Benjamin advised you of that,
8 too; is that right?

9 A. What?

10 Q. Alford.

11 A. She mentioned, yeah, the Alford.

12 Q. And then she asked you if you thought the State
13 could prove the charges against you and obtain a
14 conviction and you said yes; is that right?

15 A. I said yes based on my understanding at that time.

16 Q. So you thought that you could have been convicted
17 of all of these charges at the time, right?

18 A. At the time, yes.

19 Q. Okay.

20 A. Maybe.

21 Q. Now, going to trial you were facing a lot of years;
22 isn't that right? I mean, over a hundred if they ran
23 everything consecutively, right?

24 A. Yes.

25 Q. So there was a substantial amount of time, correct?

VINCENT RICE - CROSS BY MITCHELL

1 A. Yes.

2 Q. Now the possession with intent to distribute
3 cocaine third offense, that was what you were charged
4 with initially, right?

5 A. Yes.

6 Q. Okay. And that's a mandatory minimum of 10 years,
7 right?

8 A. Right.

9 Q. Did you know that?

10 A. After my case. I mean, prior -- you talking about
11 at the time I pled, right?

12 Q. Yeah.

13 A. What it was, my plea was very confusing. The
14 colloquy between the Judge, it was confusing because my
15 lawyer didn't go over that with me.

16 Q. Well, Judge Benjamin got a little confused, too,
17 right?

18 A. Yes, she got very confused.

19 Q. And part of this was penalty provisions and
20 enhancements, right? And you testified earlier that you
21 did have discussions with Mr. Chaplin about the various
22 enhancements, right?

23 A. Yes, we had discussions.

24 Q. You talked about that. And you talked about that's
25 what you mainly talked about. You talked about

VINCENT RICE - CROSS BY MITCHELL

1 enhancements and the drug testing, right, the analysis?

2 A. Yes.

3 Q. Okay. So you did talk about the drug analysis?

4 A. Yeah. Well, the fact of the lack of drug analysis
5 because it wasn't present.

6 Q. Okay. Y'all talked about that?

7 A. That was mainly -- I was pressuring him, not
8 pressuring but I was repeatedly requesting for him to
9 produce the lab analysis.

10 Q. Now he talked to you about challenging these things
11 at the trial, right?

12 A. No.

13 Q. He never talked to you about moving to suppress the
14 drugs?

15 A. He was not in my favor. Now he told me that I had
16 no legal challenges, no valid legal challenges.

17 Q. So he wasn't going to file any motions to suppress
18 the drugs at the trial?

19 A. To my -- I don't know what Mr. Chaplin was going to
20 do at trial because I didn't even know about it. I was
21 in the dark.

22 Q. Now today you're testifying that he never went over
23 the charges and the punishments, right?

24 A. That's correct.

25 Q. Judge Benjamin asked you that, and you said yes.

VINCENT RICE - CROSS BY MITCHELL

1 A. I did say yes because it's a part of protocol. I'm
2 going to tell you why I said yes because --

3 Q. Okay. Hold on. So you're going to explain why you
4 lied to Judge Benjamin, right?

5 A. I didn't lie.

6 Q. It sounds like you lied.

7 A. Well, it's not a lie. It's based on the
8 information that I had available to me at that time.

9 Q. Well, I mean, it's pretty simple. Did he advise
10 you of the elements of the charges; you said yes. Did he
11 advise you of the penalties; you said yes. I mean, he
12 did, didn't he?

13 A. No.

14 Q. So you never talked about that at all?

15 A. We didn't talk about the elements of that crime. I
16 didn't know what the elements were. We talked about the
17 enhancements.

18 Q. Uh-huh.

19 A. I didn't know what the elements was. As far as
20 protocol with me facing five to 10, I didn't -- it was
21 just a process of, well, I didn't want to hold up the
22 Court but it was, like, a procedure.

23 Q. So you just kind of looked at it as a procedure
24 where you just say yes to everything just to move along?

25 A. Basically.

VINCENT RICE - CROSS BY MITCHELL

1 Q. You didn't take the oath too seriously?

2 A. I didn't take an oath that day.

3 Q. You didn't swear to tell the truth before the
4 Judge?

5 A. Well, I told it to the best of my ability. I told
6 the Judge -- I told the Judge based on my understanding,
7 the information I had at the plea, you know. I didn't
8 lie to her.

9 Q. Now, you talked about your prior record with
10 Mr. Chaplin, right?

11 A. We talked.

12 Q. You had six prior drug charges, right?

13 A. I guess.

14 Q. And those would have been used to enhance the
15 current charges you had, correct?

16 A. Yes.

17 Q. So the third or subsequent you could get -- you
18 obviously had three, correct?

19 A. Yes.

20 Q. Okay. Let's talk about the facts a little bit.
21 Now, the first incident you were, you said, passed out in
22 your Camaro and the drugs were found in your lap,
23 correct?

24 A. Yes.

25 Q. I mean, the drugs were on you, there's no doubt

VINCENT RICE - CROSS BY MITCHELL

1 about that, right?

2 A. Yeah. There is doubt.

3 Q. There is doubt?

4 A. Yes.

5 Q. So you were going to -- you wanted to challenge
6 whether you actually had those drugs?

7 A. Yes. That was my thing with Mr. Chaplin. I told
8 him that that was a ploy by the officer to give a reason
9 for searching me in that vehicle because I was doing
10 nothing illegal. I told him there were no drugs in my
11 lap, but the officer did that to justify his illegal
12 search of me.

13 Q. Okay.

14 A. And the situation with him he was, like, well, who
15 is going to believe you with the priors, you know.

16 Q. So there was drugs in your lap, though?

17 A. No.

18 Q. There was not?

19 A. There was no drugs in my lap. That was the
20 justification of the illegal search.

21 Q. Where they found drugs?

22 A. I was incapacitated. I was incapacitated at that
23 time. I was drunk, you know what I'm saying. So when I
24 got out of the car, when I kind of got in my
25 consciousness they was just going through the car,

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1 tearing it up. So where the drugs was found I don't know
2 because I wasn't even near the car. I was separated from
3 the car.

4 Q. But they found you in the car is what they were
5 going to testify to.

6 A. Yeah, I was parked in the car, yes.

7 Q. Okay. So they arrested you right then, right?

8 A. Yes.

9 Q. Okay. So you were intoxicated a bit?

10 A. I was intoxicated. I was under the influence.

11 Q. Okay. This is probably when you had a little bit
12 of drug problems?

13 A. Of course. I've had drug problems for a while.

14 Q. Now the second incident, that happened at the
15 Thomas Cooper Library, right?

16 A. Yes.

17 Q. And I guess you had been kicked out of there
18 before? Well, you were on a no-trespass notice. So you
19 weren't supposed to be out there, right?

20 A. Very abnormal circumstance, yes.

21 Q. Okay. So they noticed you and then you had a
22 book bag and drugs were found in the book bag, correct?

23 A. I don't know what was found in the book bag because
24 it wasn't in my possession. That's what's --

25 Q. So you dropped the book bag and then ran, right?

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1 A. I didn't run.

2 Q. Okay. But they found the book bag and the book bag
3 had drugs in it. And that's what the officers were going
4 to testify to, right?

5 A. Yes.

6 Q. Now at the guilty plea they also said that you
7 would not be able to challenge -- you would give up your
8 right to challenge any of the evidence. Do you recall
9 that?

10 A. Excuse me?

11 Q. You waived your right to challenge any of the
12 evidence at the guilty plea, correct?

13 A. Correct.

14 Q. Okay. And that's what you're attempting to do
15 today, trying to challenge the evidence?

16 A. Okay. Are you saying that that's what the Judge
17 said?

18 Q. That's what the Judge said. You said yes, right?

19 A. Well, I mean, as far as that -- at the time with me
20 not being one that knows the law, I don't know, you know
21 what I'm saying -- I, I learned these things not from
22 Mr. Chaplin.

23 Q. Okay.

24 A. My attorney who's a legal expert, you know, he
25 didn't inform me of these things.

VINCENT RICE - CROSS BY MITCHELL

1 Q. Okay. You testified he didn't inform you of any
2 rights to a trial but you were going to trial, right, you
3 were sitting there for trial that day?

4 A. Unexpectedly, yes.

5 Q. Unexpectedly. Okay. So he never went over any
6 procedure of the trial, that you might be going to
7 trial. You had no idea. You just showed up at the
8 courthouse and he --

9 A. The whole thing with I might be going to trial was,
10 Mr. Chaplin told me if I continued to pursue the analysis
11 that meant that I wanted a trial and the deal would be
12 off the table if I pursued the analysis.

13 Q. So and that's what happened. They took the deal
14 off the table?

15 A. And when I got the analysis, I got called to the
16 Court one day and he was, like, "Today is your trial
17 day."

18 Q. Okay.

19 MR. MITCHELL: One moment, Your Honor. I'm
20 sorry.

21 (Pause.)

22 Q. So Mr. Chaplin was not your first attorney,
23 correct?

24 A. That's correct.

25 Q. Who was your first attorney?

VINCENT RICE - CROSS BY MITCHELL

1 A. Mark Sawyer.

2 Q. Okay. Mark Sawyer. Now at that point Mr. Sawyer
3 had provided you with some files too, right?

4 A. Yes.

5 Q. Okay. And that was -- was any of that some of the
6 drugs, some of the incident reports, some of the evidence
7 they were going to present against you, right?

8 A. Yes.

9 Q. So that was some discovery?

10 A. Yes.

11 Q. So you had some stuff from a different attorney.
12 So Mr. Chaplin may not have known exactly what you had,
13 right?

14 A. I'm not sure. Mr. Chaplin would have to answer
15 that.

16 Q. Okay. Right. You testified Judge Benjamin would
17 not let you relieve your attorney but she was going to
18 let you relieve Mr. Chaplin if you could hire your own;
19 is that right?

20 A. That's wrong. I mean, based on what was said that
21 day?

22 Q. Uh-huh.

23 A. No, because that was part of some cleverness by
24 Mr. Chaplin. I have that motion. It's in here. I
25 expressed my contention with him after he told me that I

VINCENT RICE - REDIRECT BY WALLER

1 deserved to go -- well, I needed to go to prison and I
2 don't need to go on the street because I would F up.

3 I said -- I told him that I don't want him on my
4 case and I would call my family and see if they could put
5 money together to get me, retain me an attorney.

6 Q. And Judge Benjamin was going to allow you to hire a
7 new one.

8 A. Excuse me. But he filed the relief, relieved of
9 counsel. And he put in as counsel the reason that he
10 should be relieved is that I told him I already have an
11 attorney. And that wasn't exactly true, you know.

12 And I tried to express that during the hearing that
13 day, that that wasn't true what he put in the paper.

14 Q. So Judge Benjamin -- you went forward with
15 Mr. Chaplin because Judge Benjamin made you, right? She
16 denied your motion.

17 A. Yes. She told me he had to be my attorney through
18 the whole process.

19 MR. MITCHELL: No further questions. Thank
20 you, Mr. Rice.

21 THE COURT: All right. Mr. Waller?

22 MR. WALLER: Just briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. WALLER:

25 Q. Mr. Rice, you were just asked on cross-examination

VINCENT RICE - REDIRECT BY WALLER

1 about waiving your right to challenge the evidence when
2 you pled guilty. Did you know all the evidence at the
3 time you pled guilty?

4 A. No, I did not. No, sir.

5 Q. Did you have an opportunity to review everything
6 before you pled guilty?

7 A. No, sir. I didn't have the time to review
8 everything.

9 Q. Okay. How are you, Vincent Rice, able to waive
10 something that you don't have full information about?

11 A. I would be waiving it in the dark, unknowingly.

12 Q. Okay. Was your original five-year plea deal, was
13 that -- you said the deal was off the table when you
14 pursued getting the drug analysis. Was that your
15 testimony?

16 A. Yes.

17 Q. Okay. Is it your understanding that that plea was
18 contingent on you not receiving the analysis?

19 A. No, I don't know if that was the stipulation of the
20 plea but it's, it's something that my attorney just told
21 me, you know.

22 Q. Okay. So he told you if you wanted to get the
23 analysis then that plea was going to be gone?

24 A. Yeah. He told me if I continued to pursue the
25 analysis that that would mean I wanted a trial.

VINCENT RICE - REDIRECT BY WALLER

1 Q. And did you think that was the reason that the
2 offer would be gone was that you wanted the drug
3 analysis?

4 A. Yes, because during one -- during the hearing, the
5 procedure, the State, the solicitor actually said that I
6 was putting up barriers. And I'm assuming those barriers
7 that I was putting up was me requesting to see the
8 analysis before I considered my options, you know. And
9 she called me using my rights to look at the evidence
10 against me as barriers.

11 Q. Okay. You mentioned the search of the vehicle that
12 you were found asleep in. And you mentioned it being an
13 illegal search.

14 Did you and Mr. Chaplin talk about that?

15 A. We talked about it. We, we spoke about it because
16 I told him from day one, "Mr. Chaplin, those drugs wasn't
17 mine in that car." Yes, I passed out, you know what I'm
18 saying, but I went to the store in someone else's
19 vehicle.

20 And I insinuated -- I listened to the officer.
21 Basically he's telling a lie, the same thing I said in my
22 testimony, to justify the search. And, and at the same
23 time that's when the analysis came to part in it because
24 I told Mr. Chaplin, "If the marijuana was the probable
25 cause for the search in my lap, the marijuana was missing

VINCENT RICE - REDIRECT BY WALLER

1 from the drug analysis."

2 So this was basically the foundation of me asking
3 for the analysis. I was, like, "Mr. Chaplin, they're
4 saying marijuana was in my lap," and I knew it wasn't and
5 "Why is it missing from the drug analysis if this was the
6 probable cause for the arrest."

7 And I'm looking at this exhibit. And it's not even
8 in the drug analysis, the one you gave me today. That
9 same marijuana is not even on this chain of custody.

10 Q. Okay. And you -- the incident we were just talking
11 about with the search, that was the City of Columbia
12 arrested you?

13 A. Yes.

14 Q. And you did see the drug analysis report from that
15 at some point; is that correct?

16 A. This one?

17 Q. No, no, not that one.

18 A. Oh. Yes, yes, I saw the other one.

19 Q. Okay. But you did not see the one that I handed
20 you earlier?

21 A. No. It's my first time seeing it.

22 MR. WALLER: Okay. No further questions.

23 THE COURT: All right. Thank you. You may
24 step down.

25 THE APPLICANT: Is there anything further I

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1 can hand you, Judge?

2 THE COURT: I'm sorry?

3 THE APPLICANT: Can I hand you anything
4 else?

5 THE COURT: No, that's okay. Everything
6 that's in evidence your attorney has moved into
7 evidence.

8 THE APPLICANT: All right. Thank you.

9 THE COURT: That's all I can look at.
10 Mr. Waller, any additional witnesses?

11 MR. WALLER: I do not, Your Honor. I was
12 going to inquire about --

13 THE COURT: Yes, what happened. Judge
14 Taylor --

15 (Off-the-record discussion.)

16 THE COURT: Mr. Mitchell?

17 MR. MITCHELL: Judge, the State calls
18 Mr. Mathias Chaplin.

19 MATHIAS CHAPLIN, having been duly sworn,
20 was examined and testified as follows:

21 THE BAILIFF: Thank you. Have a seat.
22 Spell your first and last name.

23 THE WITNESS: Mathias Chaplin.

24 C-H-A-P-L-I-N.
25

MATHIAS CHAPLIN - DIRECT BY MITCHELL

DIRECT EXAMINATION

BY MR. MITCHELL:

Q. Good morning, Mr. Chaplin.

A. Hey, good morning.

Q. How long have been practicing law?

A. Since 2001.

Q. How long have you been handling criminal cases?

A. That entire time.

Q. You've had a number of drug offenses?

A. Yes, I have.

Q. How did you become involved in Mr. Rice's case?

A. Well, just to reiterate what Mr. Rice said, he had been appointed an attorney from the public defender's office and I guess something went wrong there, or whatever, and then that person was relieved. And I was appointed at that time.

Q. Now in your initial, your meetings -- did you meet with Mr. Rice?

A. I recall meeting with Mr. Rice on numerous occasions. The exact date of the first meeting, he says it took me a year to see him. I can't deny that. I know that I met with Mr. Rice a sufficient amount of time for us to work together. Even filed motions for me to be relieved, et cetera. And there might have been a little confusion with the Court appointing me and then the clerk

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1 actually sending me an order saying that I was the new
2 attorney. And I can't say that that didn't occur.

3 Q. Okay. So it may have been a little delay when you
4 first met with him?

5 A. Yes.

6 Q. Okay. In these meetings, did you discuss the
7 charges that he was being charged with?

8 A. You know, when I -- when I met Mr. Rice, he had
9 already been working with Mr. Sawyer. And I guess they
10 were trying to work out a plea. I told Mr. Rice when I
11 met him that I'm a trial lawyer, I'm not a plea lawyer.
12 I'm going to try to do my best to try to get him a fair
13 trial on this particular matter.

14 And we talked about that a great deal. I would
15 come to him with offers from the State. I think I even
16 sent him a letter which he's put into evidence wherein
17 when we were originally negotiating it, they were -- we
18 were trying to get a five-year negotiation and, to
19 resolve this.

20 When I met with Mr. Rice and we talked about the
21 actual cases, two in particular, I became very concerned
22 with the amount of time that he was exposed to. And we
23 talked about that as well.

24 Q. And that would have been the PWID, the cocaine
25 charges?

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1 A. Yeah. Yes. All -- when you take all of the
2 charges that, I think around nine separate charges, when
3 you add all of that up and look at the actual exposure,
4 he was looking at a great deal of time.

5 And I got to tell you, my focus throughout this
6 entire case was more big picture. Well it was big
7 picture a great deal of time when we were talking, but we
8 did go over the details and specifics about this case.

9 I can't tell you Mr. Rice appreciated everything
10 that I had to say to him. A lot of the things that he
11 said unfortunately are misstated. At the same rate, I
12 did keep it real with Mr. Rice. And I don't think he
13 appreciated that. And I think that's one of the reasons
14 he wanted me to be relieved.

15 And the Judge basically did tell him that should he
16 retain counsel that she had no problem with that but
17 until then I would remain his appointed attorney.

18 Q. So you were concerned with his prior convictions?

19 A. Well, Mr. Rice would suggest we never talked about
20 trial but we always talked about trial and how it would
21 play out.

22 And one of the things that we talked about was the
23 fact that Mr. Rice denied that, well, I think Mr. Rice
24 was going to take the stand possibly and deny that the
25 book bag at the library was his, and also deny that there

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1 wasn't drugs in plain view in the Camaro. I think that
2 was how he wanted to present it. And he understood that
3 he would probably be the person that would need to make
4 some statements with regards to that; what he understood,
5 what he didn't understand; et cetera.

6 And at that time we did talk about his priors and
7 things like that that may become known.

8 When he asked me -- when we talked about trial
9 strategies and things of that order, that I had a great
10 deal of concern about the facts in the case and what the
11 State was going to testify to. And Mr. Rice was aware of
12 that. I think he had a great deal of concern as well.

13 Q. The facts are fairly straight forward. I mean,
14 what the State was alleging that he had drugs in his lap,
15 the cop saw him, woke him up, he was arrested, became a
16 little uncooperative with him in the first event. Is
17 that how you remember how that went?

18 A. Well, we talked about that. And, I mean, on one
19 hand, you know, it became a little confusing because on
20 one hand he would say that he passed out and he doesn't
21 recall when the cops came to the scene. So it would be a
22 little difficult to contradict what he noticed or what
23 happened at that time.

24 But, you know, at the same rate if he wanted to
25 testify to that, I certainly told him that was his

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1 right. But we did talk about the possible consequences
2 and other concerns with regards to that line of
3 testimony.

4 Q. So to combat the State's allegations, he was likely
5 to have to testify if he wanted to get his story out but
6 you were concerned that when he does testify his previous
7 drug convictions would come in, right?

8 A. We talked about how we would need to present a
9 defense and how it would be presented aside from me
10 cross-examining the officers and saying, for example,
11 "Well, you didn't find it in plain view, did you." Very
12 likely they would say, "well, yes, I did." So, therefore
13 the ball's in our court to refute that.

14 And my, my witness is Mr. Rice who says he was
15 passed out.

16 Q. Did you advise him about what it would mean to
17 plead guilty under Alford? It seems that he still denies
18 some of the allegations today.

19 A. You know, I don't think I'll ever forget that day
20 because it was very hectic. Mr. Rice, contrary to his
21 testimony, was aware that he was going to trial. And I
22 was prepared to make several challenging motions on his
23 behalf with regards to suppressions and concerns that we
24 talked about.

25 At the same rate we did go back and forth, back and

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1 forth with regards to trying to make some negotiations
2 because, like I said, I was very concerned about the
3 impact that this would have on Mr. Rice had he got found
4 guilty at trial. And we constantly talked about that.
5 And I must tell you that Mr. Rice had a great deal of
6 concern on that matter as well.

7 So, yes, we did talk about the Alford matter. And
8 that wasn't a last-ditch thing that we did. Basically
9 that's what I thought would get the -- would help him get
10 the matter resolved in light of the fact that he was
11 making, taking the position that the drugs weren't his
12 and the bag wasn't his. But it's very likely that a jury
13 would find him guilty if the evidence was presented.

14 Q. So you were planning to challenge that, the
15 evidence, in a motion to suppress, but if that was denied
16 you thought the chance was that he would be convicted?

17 A. I did.

18 Q. The charges -- he was charged with PWID cocaine
19 third offense?

20 A. Uh-huh.

21 Q. And then the negotiations back and forth, they went
22 to how to structure a sentence suitable to you and
23 Mr. Rice. Is that a fair statement? I mean, some of the
24 charges were reduced from thirds to seconds. And is that
25 how you recall it?

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1 A. Yes, it is. You're exactly right. As far as the
2 negotiations were concerned, quite frankly, I kept trying
3 to get us back to the five. I kept trying to do that.

4 However, so when we looked at everything and I
5 would met with Ms. Prosecutor All and another gentleman,
6 actually mainly with Britton All, and we just would go
7 over the case back and forth and try to -- and I would
8 appeal to her why I think it should be reduced or maybe
9 given, you know, less so that Mr. Rice could benefit from
10 that, I always believed, like Mr. Rice said, that he did
11 have a severe drug problem. He told me that. And I
12 think the letter that I sent him, you know, we were
13 talking about drug treatment and things on that order.
14 And I always wanted to try to impress upon the State that
15 I thought that would be the best option for him.

16 I mean, Mr. Rice suggested I was fairly callous and
17 uncaring or whatever. And I told Mr. Rice when we were
18 doing this, I said, "You know, at some point you may get
19 an opportunity to file a PCR and as long as you come to
20 court and, you know, if I make a mistake I'm willing to
21 admit that. And if it jeopardizes you in a way that I
22 needed to acknowledge it, I would. But if you come to
23 court and you're not truthful and honest, I must tell you
24 there's no attorney-client privilege and I'm going to
25 discuss whatever I need to discuss."

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1 And I'm somewhat disappointed in how Mr. Rice is
2 portraying our negotiations back and forth, but that's
3 neither here nor there.

4 Q. So it seemed that at least today that he did not
5 seem to like your analysis of the case of how it would
6 turn out against him? Is that how it was when you were
7 representing him? How was the relationship?

8 A. I think his analysis -- I think what I would say is
9 that I don't think Mr. Rice ever felt like I did enough
10 for him. And when I would come to him and say, "This is
11 the offer," or whatever the case might be, Mr. Rice would
12 never be okay with that.

13 I guess he was always waiting for the next best
14 offer or whatever the case might be. And then we got to
15 the point where the offers just disappeared. And we were
16 on the trial docket, and we were ready to roll.

17 And so to get the seven, I really had to work hard
18 on that day to try to impress upon them and they wouldn't
19 even do that. They gave us a range and then we went in
20 front of Judge Benjamin that's how we got the seven. I
21 mean, I really thought that Mr. Rice was going to get hit
22 with 30 years or something like that. And then -- so I'm
23 real grateful that the State and the Judge worked with us
24 and that Mr. Rice would benefit from those, from that
25 hard work.

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1 Q. Mr. Rice said something about broad enough to drive
2 or put a barn through. I think that's how he described
3 how you described the charges. Can you elaborate on that
4 a little bit?

5 A. I can't. I don't even talk that way. I can't help
6 you with that.

7 Mr. Rice made several portrayals of my
8 communications with him, and I'm not certain about that.
9 I can tell you that we talked about the case and I think
10 his statement that I made something about big enough to
11 drive a barn through would contradict what he said is
12 that we never discussed the discovery which I know we did
13 on numerous occasions, but I don't recall a statement
14 such as that.

15 Q. But, so the charges they were fairly broad and then
16 if this case went to trial the jury would have options to
17 convict under lesser includeds, I guess?

18 A. And we certainly would ask for a charge to that.

19 Q. Okay.

20 A. If the PWID was not considered, you know, we would
21 ask for possession based on the fact of how it was
22 packaged or whatever the case might be, maybe challenging
23 that or whatever. And I think that what the rules say is
24 that if certain evidence is presented at trial, that a
25 charge of a lesser included is appropriate. And I'm sure

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1 we talked about that as well.

2 But at the same rate, a trial always scared the
3 heck out of both him and I with regards to how that might
4 turn out and the impact it would have on him.

5 Q. You mentioned discovery. So -- the drug analysis,
6 did you review that drug analysis with Mr. Rice?

7 A. I did. Yes.

8 Q. Was there some -- did any of that analysis come in
9 with his former attorney?

10 A. Well now, I must tell you that when I met Mr. Rice
11 Mark Sawyer and Britton All had already talked about a
12 possible, I guess, plea or something like that. And
13 Mr. Rice was in possession of his discovery at the time.
14 And every time he would be transported he had a big
15 yellow folder with all of his information in it.
16 Mr. Rice is also very prolific. He went to the law
17 library a lot. He did very -- he did a lot of research
18 and, you know, at one point I even said to him, you know,
19 "Mr. Rice, I really would hope that at some point you
20 might be able to take your," -- because he's highly
21 intelligent -- and utilize that so that he could try to
22 do something in a real, you know, beneficial way to
23 improve himself. And, we talked about that as well
24 because I was impressed with a lot of our conversations.
25 I hope I answered your question.

MATHIAS CHAPLIN - DIRECT BY MITCHELL

1 Q. No, that's --

2 A. Okay. Good.

3 Q. So, going to this drug analysis --

4 A. Uh-huh.

5 Q. -- these are things that you would have challenged
6 at trial, correct?

7 A. Sure.

8 Q. The weights of whether they fit the charges; is
9 that right?

10 A. Oh even, even whether or not they were his. All of
11 it would be challenged. Sure. And we were prepared to
12 do that.

13 Q. Mr. Waller and Mr. Rice pointed out and alleged a
14 break in the chain of custody. Would that have been
15 something you also would have hoped to argue?

16 A. You know -- yes. My understanding is that a
17 significant chain -- a significant break is something
18 that would be, might lead to a suppression. At the same
19 rate, my understanding of the case law behind that is
20 that it clearly needs to be fairly significant.

21 But we did talk about those concerns and that we
22 would have the opportunity to raise that issue. And I
23 think I might have said to him that, you know, that it's
24 very likely a Judge may not rule in our favor but I can
25 preserve it so that on an appellate level he may be able

MATHIAS CHAPLIN - DIRECT BY MITCHELL

1 to bring that challenge again.

2 But, yes, we'd be sitting there looking at 100-plus
3 years as well, maybe, but -- I didn't say that part to
4 him but I did say that we could, certainly it could be
5 preserved for appeal.

6 Q. He seemed to testify that the, any plea deal would
7 be contingent upon if he did not ask to have the
8 discovery turned over. Is there any truth to any of
9 that?

10 A. That's not accurate.

11 Q. So you never had any problems with what was turned
12 over from the State?

13 A. None whatsoever.

14 Q. Okay. So you --

15 A. And in fact when the case was over and we did the
16 plea, I actually filed the appeal for him because he
17 didn't have access to a law library. And then I met with
18 him down at the detention center -- at the jail, rather,
19 detention center and provided him with all of that. And
20 that's when I had the conversation with him about the
21 PCR. And I said as long as, you know, stick to the facts
22 we can get this done.

23 But his, the little soliloquy he did at the end
24 after Mr. Waller asked him those questions, I found that
25 highly offensive because a lot of that information was

MATHIAS CHAPLIN - CROSS BY WALLER

1 just so wrong. It was just wrong.

2 Q. Uh-huh.

3 MR. MITCHELL: No further questions.

4 Please answer anything Mr. Waller has for you.

5 THE COURT: Okay.

6 CROSS-EXAMINATION

7 BY MR. WALLER:

8 Q. Mr. Chaplin, you testified that y'all were prepared
9 to challenge the chain of custody; is that correct?

10 A. Yes. That challenge would have been made, yes.

11 MR. WALLER: Okay. Your Honor, if I could?

12 THE COURT: I have the exhibits.

13 MR. WALLER: Thank you.

14 BY MR. WALLER:

15 Q. Mr. Chaplin, I'm handing you what's been marked for
16 identification purposes as Plaintiff's Exhibit One.

17 A. Okay.

18 Q. I'm going to ask if you recognize that document.

19 A. To the best of my knowledge, this is the analysis.

20 Q. Okay. The chain of custody for --

21 A. Yes.

22 Q. -- the City of Columbia charges?

23 A. Correct.

24 Q. Okay. Was that contained in discovery provided
25 from the solicitor's office?

MATHIAS CHAPLIN - CROSS BY WALLER

1 A. I would have to say yes.

2 MR. WALLER: Your Honor, at this time I
3 move to admit Plaintiff's Exhibit One.

4 THE COURT: Any objection?

5 MR. MITCHELL: Your Honor, I object under
6 hearsay. It's -- Mr. Chaplin cannot authenticate
7 the substance of that document.

8 THE COURT: I am not entering it into
9 evidence to prove the truth of the matter
10 asserted, just for the purposes of what
11 Mr. Chaplin believes it to be, believes he
12 received it from the State. So I'll allow it for
13 that purpose. Thank you.

14 (Plaintiff's Exhibit No. 1, Drug analysis -
15 chain, City of Columbia charges, received into
16 evidence.)

17 BY MR. WALLER:

18 Q. Mr. Chaplin, did you and Mr. Rice discuss that
19 document?

20 A. I can't tell you that I sat there with him and
21 discussed this document. No, I can't tell you that.

22 Q. Okay.

23 A. My standard practice is, is that what I -- I would
24 do that, but if you're saying do I know what particular
25 day we sat down and looked at it, no, I don't.

MATHIAS CHAPLIN - CROSS BY WALLER

1 Q. Okay. Did you and Mr. Rice -- would that have been
2 something that you would have generally gone over with
3 Mr. Rice?

4 A. Yes, yes.

5 Q. Okay.. Would that have been something that would
6 have, you would have reviewed in preparation for either
7 trial or a plea?

8 A. Yes.

9 Q. So to the best of your knowledge you would have
10 reviewed that document at some point?

11 A. I would have hoped I did, yes.

12 Q. Mr. Rice was charged in two separate incidents; is
13 that right?

14 A. Yes. One with the USC, the other with the City.

15 Q. Okay. And the City was the first one?

16 A. Uh-huh.

17 Q. And then USC was the second one. Was that your
18 understanding?

19 A. Well, I know there were two. One was December, the
20 other was January.

21 Q. Okay. And if I can show you what's been entered as
22 Plaintiff's -- admitted into evidence as Plaintiff's
23 Exhibit Number Two.

24 A. That is this one right here?

25 Q. It is.

MATHIAS CHAPLIN - CROSS BY WALLER

1 A. Okay.

2 Q. That's the drug analysis. Did you have an
3 opportunity to review that document?

4 A. I did.

5 Q. Okay. Did you have an opportunity to go over it
6 with Mr. Rice?

7 A. I did.

8 Q. Okay. Mr. Rice was indicted for PWID cocaine --

9 A. Uh-huh.

10 Q. -- stemming from the USC PD charges?

11 A. Okay.

12 MR. WALLER: And, Your Honor, if I may
13 approach. This is in your packet. I've pulled
14 it out. The clerk's file is quite extensive. If
15 you would like a copy of it.

16 THE COURT: It's the indictment?

17 MR. WALLER: It's one of the indictments;
18 yes, ma'am.

19 THE COURT: Okay.

20 MR. WALLER: Would you like a copy?

21 THE COURT: Yes. Go ahead and give that to
22 me.

23 MR. WALLER: I actually have one other one.

24 (Documents handed to the Judge.)

25 THE COURT: Okay.

MATHIAS CHAPLIN - CROSS BY WALLER

1 BY MR. WALLER:

2 Q. Mr. Chaplin, from the USC incident what was --
3 Mr. Rice was indicted for possession with intent to
4 distribute cocaine; is that correct?

5 A. I'm not looking at the indictment. Is that what it
6 says?

7 Q. I apologize. I apologize.

8 A. That's okay. Is this a copy of the same thing?

9 Q. That is a separate indictment.

10 A. Separate indictment. All right.

11 Q. And the second indictment I handed you is a copy of
12 the intent to distribute cocaine within the proximity of
13 a school, church, playground?

14 A. Okay.

15 Q. Is that your understanding of what Mr. Rice was
16 charged with and ultimately pled guilty to?

17 A. I know that's what he got charged with but I don't
18 think that's what he pled to. I think we negotiated
19 something different on that.

20 Q. The sentencing sheets are also contained in that
21 document I just handed you. Okay. This is cocaine, and
22 this is cocaine. Cocaine.

23 Well, let me ask you this way.

24 A. Yeah. Yeah.

25 Q. He was indicted for cocaine; is that right?

MATHIAS CHAPLIN - CROSS BY WALLER

1 A. Okay. All right.

2 Q. The Plaintiff's Exhibit Number --

3 A. But the analysis says --

4 Q. -- Two, for crack.

5 A. Okay.

6 Q. Did you and Mr. Rice discuss the discrepancy?

7 A. I think the crack was a higher penalty.

8 Q. Okay.

9 A. The only thing I could tell you is that I know we

10 had a discussion with regards to how it appeared, whether

11 it was crushed up or something like that.

12 Q. Crack was a higher penalty.

13 A. Was a what?

14 Q. The crack is a higher penalty.

15 A. Okay.

16 Q. How -- what was the strategy behind advising

17 Mr. Rice to plead guilty to a charge he's not guilty of?

18 If the drug analysis comes back as crack and not powder,

19 even though it's a higher penalty, that's not true.

20 A. No, I think what was said was that -- okay. All

21 right. Let me let you -- that might have been an error.

22 Q. Okay.

23 A. Yeah. I'm willing to admit that.

24 Q. If you can look at item 1.1.2 on that --

25 A. Okay.

MATHIAS CHAPLIN - CROSS BY WALLER

1 Q. -- document.

2 A. Uh-huh.

3 Q. What's the amount of cocaine base that was found?

4 A. 7.7 -- .5 grams. 7.7 grams.

5 Q. And item 1.1.1 was also a bag containing a powder
6 substance. What were the results of that drug analysis?

7 A. It says no controlled substance detected.

8 Q. Okay. So in your opinion, would a PWID charge
9 stand on half a gram of cocaine base?

10 A. Probably not. I think my best answer to you on
11 that is I was looking at the big picture. And, and we
12 had a lot of stuff going on that particular day. I think
13 even Judge Benjamin was a little confused when we
14 actually did the thing. But as far as to answer your
15 question, that probably was an oversight with regards to
16 the powder versus the rock.

17 Q. Okay.

18 A. Yeah.

19 Q. Mr. Rice pled to, I believe, one from each
20 incident, possession of a controlled substance, schedule
21 one through four?

22 A. Okay.

23 Q. He received two years on each of those charges. Do
24 you recall that?

25 A. I think you just read that.

MATHIAS CHAPLIN - CROSS BY WALLER

1 Q. Okay.

2 A. Uh-huh.

3 Q. Would you have gone over the charge and the
4 potential penalties with Mr. Rice of that charge even
5 though it's the least that he was facing, would you have
6 gone over that with him?

7 A. You're getting to the one-year issue?

8 Q. Yes, sir.

9 A. Yeah. There was a discussion with regards to some
10 type of enhancement or something going on. I'm not quite
11 sure what was said with regards to that. I do remember
12 mentioning, questioning that to Britton. And, but that's
13 the best answer I could give you there. It does look
14 like it says one but there it's two.

15 Q. Okay.

16 A. Uh-huh.

17 MR. WALLER: Beg the Court's indulgence,
18 please.

19 (Pause.)

20 Q. The marijuana from the USC PD arrest also --

21 A. Uh-huh.

22 Q. -- do you recall reviewing that and going over it
23 with Mr. Rice as well?

24 A. I'm certain that I went over all of the drugs with
25 him, but I think -- you're saying the bag that he's

MATHIAS CHAPLIN - CROSS BY WALLER

1 saying wasn't his?

2 Q. No, sir. I'm talking about the bag that Mr. Rice
3 testified contained 13 grams of green leafy substance.
4 It's actually not contained on that report.

5 Mr. Chaplin, I'm going to show you what's going to
6 be marked for identification purposes as Plaintiff's
7 Exhibit Number Four.

8 (State's Exhibit No. 4, chemical analysis, USC PD
9 charges, marked for identification.)

10 BY MR. WALLER:

11 Q. Mr. Chaplin, I'm going to show you what's been
12 marked as Plaintiff's Exhibit Number Four.

13 A. Okay. Give me one second.

14 Q. Sure.

15 A. One second. Give me one minute. Okay.

16 Q. And ask if you recognize that document.

17 A. I know what it says. I can't tell you I remember
18 looking at this document. I can't tell you that I
19 remember it specifically, but I know what it says.

20 Q. Okay.

21 A. And it says 13.1 grams of green leafy substance,
22 marijuana.

23 Q. Would you and Mr. Rice discuss that? Would y'all
24 have gone over that?

25 A. I'm certain that we would have, but let me just

MATHIAS CHAPLIN - CROSS BY WALLER

1 preface it this with this, if I can. Mr. Rice and I, the
2 majority of our conversation had to do with how much time
3 he was actually looking at and trying to get something
4 resolved. I just got to say -- I'm not trying to
5 minimize the actual individual drug offenses, but I got
6 to tell you that that was the big picture that we looked
7 at most of the time.

8 So, I'm certain that we would have talked about the
9 weed but at the same rate I can't tell you I remember
10 that exactly.

11 Q. Well, let me ask you this, Mr. Chaplin.

12 A. Uh-huh.

13 Q. If several of the charges weren't -- couldn't hold
14 up in court for, as charged wouldn't that affect the
15 overall amount of time?

16 A. Well, I think that's why we were going to go to
17 trial because we would ask for lesser includeds if the
18 State couldn't prove that.

19 Q. Okay.

20 A. Because I think Britton was arguing inference
21 weights and maybe if not packaging or whatever and we did
22 talk about why I thought that they were being a bit heavy
23 handed with Mr. Rice with regard to that. So those are
24 the things that we would have discussed.

25 Q. Okay. Would the weight of the marijuana and the

MATHIAS CHAPLIN - CROSS BY WALLER

1 weight of the cocaine -- and the weight of the cocaine
2 base found, was that part of your negotiations with the
3 solicitor?

4 A. I can't say yes to that.

5 Q. Would that not have affected the overall amount
6 that Mr. Rice was being offered?

7 A. I pointed out several concerns that I had with the
8 State's case against Mr. Rice. And as a result we went
9 from a fairly high number of years to a very, what I
10 think a very reasonable plea offer. And then we even got
11 it even lower when we got in front of the Judge.

12 So I'm sure that all of these issues that you're
13 bringing up were things that I discussed with Britton as
14 to why I believed that, you know, she was being a little
15 overboard with regards to that. And the charges, the
16 evidence was weak. So I'm sure that all of that had
17 something to do with her negotiations with me.

18 Q. Okay. Was there ever any discussion between you
19 and the solicitor about reducing the charges that he
20 actually pled guilty to to conform with evidence and then
21 conform with the discovery that they provided,
22 specifically to the marijuana, the crack cocaine, and the
23 proximity charge?

24 A. And what do you think the marijuana charge should
25 have been? What are you saying with regards to that?

MATHIAS CHAPLIN - CROSS BY WALLER

1 Q. Thirteen grams, that seems to be possession
2 weight.

3 A. Okay. And then with regards to -- well, I think a
4 lot of it had to do with the fact that it was in a book
5 bag, that the position that they took was that he was
6 there -- are we talking about the car or the book bag?

7 Q. We are talking about the USC book bag.

8 A. You know, the whole, the whole drive behind the
9 possession there is that they were under the belief that
10 that's what was going to be presented. That's what
11 Mr. Rice did; he went to USC and sold drugs to college
12 students. And that's what his bag contained was a book
13 bag full of different various drugs that was going to be
14 peddled in the library.

15 You know, we had that conversation over and over
16 and over again with regards to that if they could even
17 prove that the bag was his.

18 Q. Okay. Looking at the big picture --

19 A. Okay.

20 Q. -- you advised Mr. Rice to plead guilty to the
21 range that y'all had come up with, to the PWID cocaine
22 and the PWID marijuana, after you had reviewed the drug
23 analysis?

24 A. I would have to say yes, that he pled under Alford
25 to the charge.

MATHIAS CHAPLIN - REDIRECT BY MITCHELL

1 MR. WALLER: No further questions.

2 THE COURT: Okay. Thank you. Any
3 redirect?

4 MR. MITCHELL: Briefly.

5 REDIRECT EXAMINATION

6 BY MR. MITCHELL:

7 Q. All right. Mr. Chaplin, so, I mean, your main
8 focus in this case is that he's got, you know, possession
9 with intent to distribute third offense. I mean, he's
10 looking up to, what? It maxes out at 30 years on that;
11 is that right?

12 A. Yes.

13 Q. Something around there. So your focus in the case
14 was to try to get these charges dropped down to a
15 suitable sentencing agreement; is that right?

16 A. Yeah. And, you know, at the last minute when we
17 were not going to trial, we were actually trying to work
18 out a plea, I got to tell you, we were going fairly
19 fast.

20 But, again, the focus was on the big picture. And
21 Mr. Rice was, I think, downstairs in holding. I was
22 upstairs going back and forth, whatever. And, and I
23 understand what Mr. Waller is pointing out. At the same
24 rate, I think that it probably -- I don't know what
25 impact it had if we were looking at the seven but at the

MATHIAS CHAPLIN - REDIRECT BY MITCHELL

1 same rate, yeah, it was big picture. And it was some
2 fast negotiations because we were almost -- you know, I
3 think the jury was in the room ready to come out and we
4 were about to start the trial. That's the kind of
5 conditions we were under.

6 Q. You mentioned about inference weights and the
7 packaging weights. This is stuff the State would have
8 argued to support their threshold to meet the elements of
9 the charges, right?

10 A. Yeah. The prosecutor, the State -- and, you know,
11 in all fairness to Mr. Rice and I told the State that I
12 thought that they were being very heavy handed. And, I
13 mean, if Mr. Rice believes that what he should do is go
14 back to trial and start from scratch then, you know, I
15 need to say on the record that I support that 100
16 percent.

17 At the same rate, yeah, that was the, that was the
18 issue. And the State basically wanted to argue that what
19 you've got is you've got a man here that, you know, falls
20 asleep in a car with a carload of drugs and gets caught
21 with a book bag or they're going to say dropped a book
22 bag at USC selling drugs again.

23 As far as the State was concerned, Mr. Rice was one
24 of the biggest drug dealers in Columbia. And I kept
25 arguing that he was a user, and that we needed to try to

MATHIAS CHAPLIN - REDIRECT BY MITCHELL

1 show him some type of mercy or whatever the case might
2 be.

3 And I think that's what eventually happened but at
4 the same rate I think that that's how the State portrayed
5 Mr. Rice, as a big-time drug dealer.

6 Q. You know, and the State would have had arguments to
7 support these weights and the charges, right? And you
8 would have challenged that --

9 A. Sure.

10 Q. -- had he gone to trial, correct?

11 A. Yes.

12 Q. And that was part of what -- your discussions with
13 Britton, that you thought she had some weak points in the
14 case --

15 A. Exactly.

16 Q. -- on some of these charges, right?

17 A. Yes.

18 Q. Okay.

19 A. And I think that -- yeah, and I do think that
20 Britton was -- and Mr. Rice and I talked about this. I
21 thought that she was being a bit -- and I don't mean to
22 make it personal against Britton, I should say the
23 State -- was being very overhanded because I think they
24 painted Mr. Rice with a brush that was a bit unfair.
25 They just saw Mr. Rice as a drug dealer and somebody

MATHIAS CHAPLIN - REDIRECT BY MITCHELL

1 that, you know, that is just really a bad person.

2 And I met with Mr. Rice on numerous occasions.
3 Found him to be very intelligent, a nice guy. And we
4 talked about it, how he, you know, how he was brought up,
5 the absence of, you know, a mentor father-figure, things
6 on that order, why we thought that some type of drug
7 treatment would have been the best resolution for it,
8 what a good mind he had but yet it was just not being
9 utilized and things on that order.

10 So we, we talked about it from the top to the
11 bottom. And I did think that the State had weaknesses
12 with their case and that's what we were going to present
13 at trial and ask for lesser includeds.

14 Q. So the State wasn't willing to drop down on any of
15 these charges even though you brought these things up?

16 A. Man, on the day of trial, I mean, I'm not even sure
17 how we were able to get into Judge Benjamin's office and
18 actually get this back on the table because the State
19 basically was ready to go forward. And what their
20 position was if we docket it and we get ready for trial
21 then we're going to trial.

22 And that's what we were confronted with on that
23 morning.

24 Q. So they weren't going to drop any of these charges
25 because of the concerns you may have had with some of the

MATHIAS CHAPLIN - REDIRECT BY MITCHELL

1 weights?

2 A. No. In fact, they were going to go with the first
3 case, leave the second one in the hopper and if they
4 didn't get the desired results on the first trial they
5 were going to come back and do it again because they had
6 two instances when, you know, which the State felt was
7 very strong cases and I felt both cases had some
8 weaknesses.

9 But I also was determined not to take him to court
10 and not plead to everything and clean the table so that
11 when we finished, and we talked about this too, that he
12 wouldn't have to come back and look at any more trials.
13 Because technically when we went to court that morning
14 the only thing in front of the Judge was the first
15 trial. And I got a negotiation back on the table that
16 took, that encompassed everything. And maybe in my haste
17 I did overlook a year or, you know, one versus two or
18 something like that but I think overall it was a pretty
19 good offer.

20 Q. So you weighed the fact that they were going to try
21 him on both instances?

22 A. At separate times.

23 Q. At separate times?

24 A. Yes.

25 Q. And then if he's convicted of the first one they'd

MATHIAS CHAPLIN - REDIRECT BY MITCHELL

1 be able to bring it up in the second one if he chose to
2 testify?

3 A. And we talked about that. That's how the State was
4 presenting it. Look we got two bullets. If we don't get
5 him on the first one we'll get him on the second one. I
6 thought that was pretty harsh but at the same rate we
7 weren't talking about a whole lot of dope. Like
8 Mr. Waller said grains, leaves, whatever the case might
9 be, we're not talking about that. But when you look at
10 the record, when you look at the enhancements and when
11 you look at everything else, we were looking at a
12 boatload of time.

13 Q. Right. And that's why you advised him to plead
14 guilty to clean the entire slate so he would not have any
15 pending charges and maybe released in the next few years?

16 A. Well, and I suggested to him on an Alford plea
17 under that, but I left the final decision up to him. I'm
18 here. I'm ready to go to forward. If you want to go to
19 trial, let's go to trial.

20 MR. MITCHELL: All right. Thank you,
21 Mr. Chaplin. No further questions.

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

23 THE WITNESS: Thank you very much.

24 MR. WALLER: Your Honor, if you're inclined
25 to take oral argument my client has informed me

1 he desperately needs take a bathroom break. If
2 we could take a two-minute break?

3 THE COURT: Let's go ahead and take a quick
4 bathroom break and we'll get back on the record.

5 MR. WALLER: Thank you, Your Honor.

6 (Break taken at 11:53 until 11:58 a.m.)

7 THE COURT: I'm ready to go back on the
8 record if y'all are ready.

9 MR. MITCHELL: Yes, ma'am.

10 MR. WALLER: Yes, Your Honor.

11 THE COURT: Okay. I'll hear summations.

12 MR. WALLER: Sure.

13 Your Honor, I want to address each of my,
14 each of my amendments individually, I guess.

15 Mr. Rice testified that he and Mr. Chaplin
16 did not discuss the drug analysis, that they did
17 not go over everything. And that if they had
18 that he would not have pled guilty but would have
19 insisted on going to trial.

20 Your Honor, in looking at Plaintiff's
21 Exhibit Number One, Number Two, Your Honor, one
22 of those is the SLED drug analysis report from
23 the University of South Carolina incident. Your
24 Honor, one of the bags contained no controlled
25 substance. The other contained half a gram of

1 crack cocaine.

2 Yet Mr. Chaplin advised Mr. Rice to plead
3 guilty to PWID cocaine, a completely different
4 charge, and also intent to distribute within the
5 proximity of a school.

6 Your Honor, those -- it just doesn't add
7 up. I would argue that it is ineffective to
8 advise your client to plead guilty to something
9 that could not be proven by the State by their
10 own evidence. And to -- particularly for drug
11 offenses that's a completely different drug.

12 THE COURT: How much crack cocaine was it
13 again?

14 MR. WALLER: Half a gram, Your Honor.

15 THE COURT: Okay. And that is a possession
16 charge or a distribution charge for an
17 inference?

18 MR. WALLER: I believe a half a gram would
19 be a possession charge for an inference weight.

20 THE COURT: For an inference. Okay.

21 MR. WALLER: Your Honor, when he was
22 charged and I understand being initially charged
23 he was charged because it was another bag that
24 contained no controlled substance. And if Your
25 Honor will look at the dates on the indictments

1 versus when the drugs were actually analyzed,
2 they were analyzed after the indictment was true
3 billed. So he was indicted based on the field
4 weight. So, Your Honor, the indictment should
5 have been amended or challenged in some way.

6 Your Honor, additionally if you'll look to
7 Applicant's Exhibit Number One, the chain of
8 custody from the City of Columbia. Your Honor,
9 at the very bottom, the last name there entered,
10 there's a gap from December 13th through December
11 19th of where the drugs were and of who, who
12 they -- it went to. There's a gap. They go from
13 A Beckham on 12-13, to MB Hendrix receiving them
14 from S Phillips on the 19th.

15 So there's a gap of six days and
16 transferring it to another person that we don't
17 know where it was. Mr. Rice testified that they
18 didn't discuss that and if they had discussed the
19 chain of custody he would have challenged it and
20 he wouldn't have pled guilty to it.

21 Additionally, Your Honor, that is the
22 same -- I apologize. So that's another thing
23 that was ineffective. Mr. Chaplin did not review
24 the chain of custody for a possible challenge for
25 that.

1 Your Honor, Mr. Rice pled guilty to two
2 counts of possession of a schedule one to four
3 controlled substance under Section 44-53-370 (D)
4 (2). Your Honor, for a second offense, which is
5 what he pled guilty to for both of those, the
6 maximum-allowed penalty is one year or up to a
7 \$2,000 fine.

8 THE COURT: What's the remedy in this
9 situation? Is it -- would it be if I were to
10 find that that sentence was outside of the
11 limits, would it be to remand simply for
12 re-sentencing or is that something where I can
13 conform the sentence to --

14 MR. WALLER: Your Honor, I believe it would
15 be a remand. I would ask for a remand.

16 Certainly we don't know what Judge
17 Benjamin's intention was by sentencing him above
18 the limit.

19 THE COURT: Right. But all these sentences
20 ran concurrently?

21 MR. WALLER: Correct.

22 THE COURT: So that would be just a matter
23 of making sure that on paper the sentence,
24 whether it be 30 days or one year, was correct.

25 MR. WALLER: Correct. Your Honor,

1 additionally, though, it goes to the totality of
2 the ineffectiveness, that Mr. Chaplin didn't
3 object to that.

4 Obviously -- and just from a practical
5 matter, it doesn't matter for what his sentence
6 is, but from a procedural standpoint it's just
7 another example of what went wrong during
8 Mr. Chaplin's representation. And that he
9 wasn't -- he didn't catch it. And it was an
10 error that he did not catch it.

11 THE COURT: Okay.

12 MR. WALLER: Your Honor, Mr. Rice testified
13 that Mr. Chaplin told him that all the charges
14 were going to be 65 percent. I certainly concede
15 to the State and I know they will argue that plea
16 counsel is under no duty to inform a client of
17 any percentages or anything like that. However,
18 if they do inform them they have to give correct
19 information.

20 So, Your Honor, in this situation we would
21 argue that incorrect information was given;
22 therefore, that is ineffective assistance of
23 counsel.

24 Your Honor, if I could, I'd like to hand up
25 a couple cases.

1 (Documents handed to the Court.)

2 In Mr. Rice's testimony he testified that
3 he and Mr. Chaplin were not prepared to go to
4 trial. They did not discuss the opportunity that
5 if they were at trial that the jury could
6 possibly find him guilty of lesser-included
7 offenses.

8 Your Honor, the case I handed you, Kerrigan
9 V State, speaks just to that issue. I ask the
10 Court to consider that.

11 And, Your Honor, additionally with respect
12 to the original plea agreement. Your Honor,
13 Plaintiff's Exhibit Number Three is a letter from
14 Mr. Chaplin to Mr. Rice relaying the plea offer.
15 All it states is that the plea offer was five
16 years negotiated sentence.

17 I asked Mr. Rice on direct examination how
18 it was explained to him that he was going to be
19 able to get five years on something that carried
20 a 10-year minimum. He didn't have the answer
21 because it was never communicated to him that
22 there were other reductions in charges and things
23 that would, would take away some of the negative
24 consequences of having seconds and third
25 offenses.

1 The only thing communicated of the plea
2 offer was the time. The collateral consequences
3 such as strikes and other things weren't
4 communicated to him. Your Honor, that Dade V
5 State case discusses that.

6 THE COURT: Okay.

7 MR. WALLER: That's all I have, Your
8 Honor. Thank you.

9 THE COURT: All right. Thank you.
10 Mr. Mitchell?

11 MR. MITCHELL: Your Honor, I start by
12 saying I take issue with challenging any of this
13 evidence. I mean, he pled guilty. When you
14 plead guilty you waive all challenges to the
15 evidence, the sufficiency of the evidence.

16 He agreed that the State -- he pled under
17 Alford but he pled and stated on the record and
18 agreed with Judge Benjamin that he would not be
19 able to thereafter challenge this evidence, and
20 that he believed the State would be able to prove
21 the elements to meet these charges and to get a
22 conviction. And that's what's in the guilty
23 plea.

24 So that would be my first argument. And we
25 don't even need to go through all this because he

1 waived any challenge to that evidence by pleading
2 guilty. If you're going to come back and say,
3 oh, well, we should have filed this motion,
4 should have filed that motion, you can't do
5 that. You have to go to trial and you have to
6 challenge these things and let the courts work
7 the way out.

8 You know, I've cited Jameson is the most
9 recent case. It says, you waive all
10 non-jurisdictional defects and you waive all
11 challenges to the evidence by pleading guilty.

12 Getting into this -- you know, and I think
13 another very important point is that the State
14 was not willing to drop any of these charges
15 despite Mr. Chaplin's efforts in pointing out the
16 weakness in their case. I mean, they were going
17 forward on these cases to trial with the intent
18 to prove that they were going to meet these
19 elements or meet these weights, meet all the
20 requisites, you know, meet all the requisite
21 elements to meet these possession with intent to
22 distribute cocaine.

23 I mean, you could still intend to
24 distribute. And that was due to the other bag, I
25 believe, would have been the other evidence

1 presented on that; that he would have had an
2 intention to distribute the cocaine that he did
3 have.

4 And the weights here are not dispositive.
5 This is something that was going to be an issue
6 at trial. Mr. Chaplin testified to that. He was
7 going to challenge these things, trying to keep a
8 lot of this stuff out. I mean, he could have
9 challenged the stop to begin with and maybe none
10 of these charges -- I mean, these aren't things
11 you can now come back and say it should have been
12 done. He waived all of this by pleading guilty.

13 On the max of one year on that statute, I'm
14 not as clear on that as I probably should be. It
15 does seem to say the maximum is one year. I
16 think the remedy is a remand and a re-sentencing
17 on that, but I'm not willing to concede that that
18 is error as -- I don't see how everyone missed
19 that at that point, but that's not something that
20 I'm totally comfortable conceding at this point.

21 I would state there's no prejudice, you
22 know, this -- the two years and everything else
23 is seven. I mean, it would be subsumed by the
24 maximum sentence. The 65 percent, that's a duty
25 to advise a percentage of what you would serve

1 violent/nonviolent. That's something you would.

2 But, also Mr. Waller cited something about
3 collateral consequences of the plea. I think
4 it's clear that he was offered this plea deal,
5 rejected it. I mean, he knew what he was getting
6 into with the plea, a negotiated five for all of
7 these charges. He rejected that. He testified
8 to that. Mr. Chaplin testified to that. You
9 know, they tried to work to get that plea back,
10 were unable to, ended up getting what he got.

11 But I think Mr. Waller said something about
12 how he was not advised of the collateral
13 consequences. There's no duty to advise
14 collateral consequences so I think that would be
15 dispositive of that argument. And I'd rest on
16 the testimony of the other issues.

17 THE COURT: Okay. Well, thank you very
18 much.

19 MR. MITCHELL: Thank you.

20 THE COURT: I have read this transcript
21 prior to this hearing, and I have listened
22 carefully to the testimony and the arguments that
23 were made. I have also read the application and
24 the return and took pretty comprehensive notes
25 throughout hearing, and I am ready to rule.

1 This is a guilty plea. And so we are
2 looking at just like in any other post-conviction
3 relief action, two factors; whether there's
4 deficient performance and whether there's
5 prejudice. But with a guilty plea the prejudice
6 means that Mr. Rice would not have pled guilty
7 but for any deficient performance I might find
8 that Mr. Chaplin rendered him.

9 And I find that there there is no deficient
10 performance in this case that caused any
11 prejudice. And I will specifically say that I
12 found Mr. Chaplin's testimony to be credible.
13 Where Mr. Chaplin and Mr. Rice's testimony
14 disagreed, I found Mr. Chaplin more credible than
15 Mr. Rice.

16 Specifically with regard to the plea offer,
17 Mr. Rice argued that he didn't understand the
18 consequences of his plea, of the amount of time
19 he was facing when he rejected or did not take
20 the five-year offer. I found credible
21 Mr. Chaplin's testimony that the reason Mr. Rice
22 declined the offer was that he was waiting for a
23 better offer.

24 I also note that Mr. Rice pled pursuant to
25 Alford. And it is my understanding of the facts

1 based on Mr. Chaplin's testimony and a reading of
2 the transcript that Mr. Rice understood that he
3 was not admitting his guilt but was taking the
4 benefit of the bargain and agreeing that the
5 State would probably be able to prove its case
6 beyond a reasonable doubt to a jury. And he
7 wanted to take advantage of this negotiated
8 sentence of between five and 10 years while he
9 was facing a possible maximum sentence of 132
10 years, and based on that exposure that he
11 voluntarily pled guilty.

12 I think the overarching issue here is
13 whether Mr. Rice's guilty plea was involuntary
14 and I do not believe that it was involuntary.

15 With regard to each of the specific issues
16 that were raised, just so we have some factual
17 findings. Mr. Rice argued that he didn't have
18 the opportunity to review evidence. I find as a
19 fact that he did have an opportunity to review
20 his discovery.

21 He also argued that he didn't have an
22 opportunity to challenge the chain of custody.
23 Well, he chose to plead guilty and I think prior
24 to pleading guilty he and Mr. Chaplin -- it was
25 testimony from Mr. Chaplin that they did discuss

1 the chain of custody.

2 And that it may have been an imperfect
3 chain in some ways but that it would likely have
4 been allowed into evidence. As we know, all
5 persons in a chain of custody as long as they are
6 identifiable and they can -- they can't -- the
7 State can prove that what was ultimately tested
8 was that which was taken into custody, then the
9 chain, the chain will not be broken and the
10 evidence will be admitted.

11 There's also an argument that there was no
12 opportunity to challenge the weight of the drugs.
13 Again, Mr. Chaplin {sic} chose to waive any
14 defenses and he pled versus -- pled pursuant to
15 Alford.

16 He -- I believe -- I find as a fact that he
17 and his attorney went over the drug analysis.
18 While the inferences to the weight may not have
19 been met, certainly those are only inferences and
20 the State could have still proven their case
21 against Mr. Rice.

22 With regard to the crack versus cocaine, I
23 find that that was a strategic decision.
24 Mr. Chaplin was looking at the big picture. He
25 was ultimately looking for less exposure for

1 Mr. Rice when they pled guilty. And this small
2 discrepancy would not have mattered to the big
3 picture.

4 With regard to the failure to object to the
5 two-year sentence, while I do not find that it's
6 deficient performance because ultimately it does
7 not affect the length of time that Mr. Rice will
8 spend incarcerated, and although I'm sure
9 Mr. Chaplin had hoped to receive a five-year
10 sentence in the negotiations, he didn't receive
11 10 years.

12 And so once you hear that seven years you
13 take it and you move on and a concurrent sentence
14 of two years rather than one year would not be
15 something that a lawyer with prevailing
16 professional norms would object to.

17 However, it is outside of the maximum
18 sentence that could be imposed and so I will
19 remand for re-sentencing on the possession of
20 controlled substances so that Judge Benjamin can
21 impose a sentence that falls within the allowable
22 time limits.

23 I have already addressed the plea offer. I
24 do not find it credible that Mr. Chaplin promised
25 Mr. Rice that he would only serve 65 percent.

1 There's discussion in the plea transcript on page
2 26 where Mr. Chaplin is providing mitigation and
3 he's pointing out to the Judge that in other
4 cases even with trafficking now that there have
5 been sentencing reforms, some people can only
6 serve 65 percent indicating that this was not a
7 65 percent crime. And so I just don't find it
8 credible that he would have misinformed Mr. Rice.

9 With regard to the argument that this was
10 involuntary because Mr. Rice believed that a jury
11 would know about the prior drug convictions if he
12 went to trial, I think both Mr. Rice's and
13 Mr. Chaplin's testimony indicated that trial was
14 discussed. And if Mr. Rice was to take the stand
15 to say that the backpack wasn't his and that when
16 he was found passed out in the car supposedly
17 with drugs in his lap that he didn't in fact have
18 drugs in his lap, then by taking the stand he was
19 at risk for having his prior drug convictions
20 come before the jury.

21 That is not deficient advice. That was
22 appropriate advice to give to Mr. Rice.

23 I believe I have addressed each of the
24 arguments but I will allow you at this time to
25 point out any arguments that I didn't address.

1 MR. WALLER: Your Honor, I believe that
2 you did address all the arguments.

3 THE COURT: Okay. Thank you.

4 And I would ask Mr. Mitchell to please
5 prepare an order. I ask that you prepare it
6 within the next 20 days. I know that you have
7 some other orders that you have to write as
8 well. So just let me know if that's going to be
9 putting it at too short of a time limit for you,
10 deadline for you.

11 MR. MITCHELL: That would be a little
12 tight.

13 THE COURT: I'll give you 30 days then.
14 All right. Well, thank you all very much.

15 MR. MITCHELL: Thank you.

16 MR. WALLER: Thank you, Your Honor.

17 END OF CASE: 12:19 P.M.

18 ***

19 CERTIFICATE OF REPORTER

20 STATE OF SOUTH CAROLINA)

21 COUNTY OF AIKEN)

22 I, Cheri L. Young, Registered Professional
23 Reporter and Official Court Reporter for the State
24 of South Carolina, Second Circuit-At Large, do hereby
25 certify that the foregoing proceedings were written

1 stenographically by me using computer-aided translation;
2 further, that the foregoing is a true, accurate and
3 complete record, to the best of my skill and ability,
4 of all the proceedings had and evidence introduced in
5 the hearing of the captioned case, relative to appeal,
6 in the Court of Common Pleas for Richland County, on
7 the 26th day of August, 2015.

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

10 I have hereunder set my hand this 4th day of
11 March, 2016.

12
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14 Cheri L. Young, RPR
15 Official Court Reporter
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1 stenographically by me using computer-aided translation;
2 further, that the foregoing is a true, accurate and
3 complete record, to the best of my skill and ability,
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11 March, 2016.

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14 Cheri L. Young, RPR
15 Official Court Reporter
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COLUMBIA POLICE DEPARTMENT DRUG ANALYSIS LABORATORY

DRUG ANALYSIS REQUEST/CHAIN OF CUSTODY FORM

Use ballpoint pen and press firmly. Print all information except where signature is required.

Lab Number (Assigned by Login): 411-309 Control Number (From Bag): 6013334
 Case Number: 110036357 Requesting Officer: A. Anderson
 Type of crime: Possession Controlled Substance Agency (If other than CPD): _____
 Incident date: 12-11-2011 Address or CPD Region: North
 Incident location: 2715 Main St Agency Phone number: 545 3500

SUBJECT(S) / VICTIM(S)

Rice Vincent
 Last First Middle

 Last First Middle

 Last First Middle

 Last First Middle

☒ Subject ☐ Victim DOB: _____
☒ Male ☐ Female Race: IS
☐ Subject ☐ Victim DOB: _____
☐ Male ☐ Female Race: _____
☐ Subject ☐ Victim DOB: _____
☐ Male ☐ Female Race: _____
☐ Subject ☐ Victim DOB: _____
☐ Male ☐ Female Race: _____

EVIDENCE

The items submitted below will be examined with your assurance that the submitted specimens have not nor will be submitted to any other laboratory or agency for examination.

4 Small baggies containing white powdery substance
1 bag containing 5 blue oblong pills and 7 orange oblong pills
1 bag containing 4 white yellowish rock like substance
1 bag containing 82 round yellow pills

Evidence submitted in sealed container is provisionally accepted as being correctly described as listed above. Contributors agree that the actual inventory conducted by the examiner will be the correct inventory.

DO NOT WRITE BELOW THIS AREA

FOLD HERE AND PLACE TOP COPY INSIDE OF BEST
 EVIDENCE BAG SO IT CAN BE READ THROUGH CLEAR SIDE
 OF BAG

COMPLETE EVIDENCE CHAIN OF CUSTODY ON BOTTOM OF NEXT PAGE



COLUMBIA POLICE DEPARTMENT DRUG ANALYSIS LABORATORY

DRUG ANALYSIS REQUEST/CHAIN OF CUSTODY FORM

Use ballpoint pen and press firmly. Print all information except where signature is required.

Lab Number (Assigned by Login): L11-369

Control Number (From Bag): C 01333474

Case Number: 110036357

Requesting Officer: A. Anderson

Type of crime: Possession Controlled Substance

Agency (If other than CPD): _____

Incident date: 12-11-2011

Address or CPD Region: Worth

Incident location: _____

Agency Phone number: 545 7500

SUBJECT(S) / VICTIM(S)

Rice Vincent
Last First Middle

☒ Subject ☐ Victim DOB: _____
☒ Male ☐ Female Race: B

Last First Middle

☐ Subject ☐ Victim DOB: _____
☐ Male ☐ Female Race: _____

Last First Middle

☐ Subject ☐ Victim DOB: _____
☐ Male ☐ Female Race: _____

Last First Middle

☐ Subject ☐ Victim DOB: _____
☐ Male ☐ Female Race: _____

EVIDENCE

The items submitted below will be examined with your assurance that the submitted specimens have not nor will be submitted to any other laboratory or agency for examination.

4 Small baggies containing white powdery substance
1 bag containing 5 blue oblong pills and 7 orange oblong pills
1 bag containing 4 white yellowish rock like substance
1 bag containing 86 round yellow pills

Evidence submitted in sealed container is provisionally accepted as being correctly described as listed above. Contributors agree that the actual inventory conducted by the examiner will be the correct inventory.

Evidence Chain of Custody

Submitted By: Adam Anderson

Adam Anderson
Signature

Date/Time: 12/11/2011 1500

Submitted To: Evidence Locker

Signature

Date/Time: _____

Submitted By: hacker

Signature

Date/Time: _____

Submitted To: A. Beckham

A. Beckham
Signature

Date/Time: 12/12/11/0800

Submitted By: A. Beckham

A. Beckham
Signature

Date/Time: 12/13/11/0920

Submitted To: P. Mead

P. Mead
Signature

Date/Time: 12/13/11/0920

Submitted By: P. Mead

P. Mead
Signature

Date/Time: 12/13/11/0930

Submitted To: A. Beckham

A. Beckham
Signature

Date/Time: 12/13/11/0930

Received From: S. Phillips

S. Phillips
Signature

Date/Time: 12-19-11 1420

Returned To: MB Hendricks

MB Hendricks
Signature

Date/Time: 12-19-11 1420

COLUMBIA POLICE DEPARTMENT DRUG ANALYSIS LABORATORY

DRUG ANALYSIS REQUEST/CHAIN OF CUSTODY FORM

Use ballpoint pen and press firmly. Print all information except where signature is required.

Lab Number (Assigned by Login): 11-309

Control Number (From Bag): C 013334

Case Number: 11-30357

Requesting Officer: A. Anderson

Type of crime: _____

Agency (if other than CPD): _____

Incident date: 12-11-2011

Address or CPD Region: _____

Incident location: _____

Agency Phone number: _____

SUBJECT(S) / VICTIM(S)

Kee Vincent
Last First Middle

☒ Subject ☐ Victim DOB: _____

☒ Male ☐ Female Race: _____

Last First Middle

☐ Subject ☐ Victim DOB: _____

☐ Male ☐ Female Race: _____

Last First Middle

☐ Subject ☐ Victim DOB: _____

☐ Male ☐ Female Race: _____

Last First Middle

☐ Subject ☐ Victim DOB: _____

☐ Male ☐ Female Race: _____

EVIDENCE

The items submitted below will be examined with your assurance that the submitted specimens have not nor will be submitted to any other laboratory or agency for examination.

See attached request form 12-11-2011

Evidence submitted in sealed container is provisionally accepted as being correctly described as listed above. Contributors agree that the actual inventory conducted by the examiner will be the correct inventory.

Evidence Chain of Custody

Submitted By: M. Hendricks M. Hendricks

Date/Time: 1-4-12 1100

Submitted To: A. Beahm A. Beahm

Date/Time: 1-4-12 1100

Submitted By: _____
Print Signature

Date/Time: _____

Submitted To: _____
Print Signature

Date/Time: _____

Submitted By: _____
Print Signature

Date/Time: _____

Submitted To: _____
Print Signature

Date/Time: _____

Submitted By: _____
Print Signature

Date/Time: _____

Submitted To: _____
Print Signature

Date/Time: _____

Received From: _____
Print Signature

Date/Time: _____

Returned To: _____
Print Signature

Date/Time: _____

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

Inv. Kellie Williams
University of South Carolina Police Department
1501 Senate St.
Columbia, SC 29208

DRUG ANALYSIS
October 03, 2013
SLED LAB: L13-12196
Your Case No: 1204221
Incident Date: 1/25/2012
[S] Vincent Rice

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Mark A. Keel, Chief
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

- Sub # 1 On September 19, 2013, items were received in B219614 from Toby Freeman of the University of South Carolina Police Department.
- Item: 1.1 Ziplock bag containing prescription bottle containing...
- Item: 1.1.1 Plastic bag containing powder substance.
RESULTS:
No controlled substance(s) detected.
- Item: 1.1.2 Plastic bag containing powder substance.
RESULTS:
Cocaine Base (Crack) (C-II) found, 0.5 grams (7.7 grains).
- Item: 1.1.3 White tablets (M357).
RESULTS:
Hydrocodone and Acetaminophen (C-III) found, thirteen (13) tablet(s).

CLSA

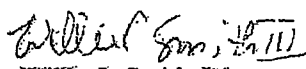


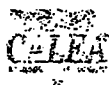
P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351



- Item: 1.1.4 White tablet (M363).
RESULTS:
Hydrocodone and Acetaminophen (C-III) found, one (1) tablet(s).
- Item: 1.1.5 Red/Tan capsules (M 532 / M 532).
RESULTS:
Oxycodone and Acetaminophen (C-II) found, five (5) capsule(s).

This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.


Willie C. Smith, III
Forensic Scientist



FORM A

**REPORT OF ANALYSIS FOR
CONTROLLED DANGEROUS SUBSTANCES
(Substance Found)**

I, Willie C. Smith, III, am a Forensic Scientist employed by the South Carolina State Law Enforcement Division (SLED), certified by SLED as a Forensic Scientist qualified to perform testing and analysis for controlled and/or dangerous substances prohibited by law in this State by Title 44, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

I have 13 years and 3 months experience as a Forensic Scientist. During that period, I have been qualified as an expert witness and testified in court no less than 66 times. I have received the following training as a Forensic Scientist.

B.S. Chemistry, University of South Carolina, Columbia, SC, 1995

B.S. Biology, University of South Carolina, Columbia, SC, 1991

Drug Enforcement Administration, Forensic Chemist Seminar, 2004

Training in Forensic Drug Analysis, South Carolina Law Enforcement Division, 2001

Basic Law Enforcement Training, South Carolina Criminal Justice Academy, 2000

Sub # 1 On September 19, 2013, items were received in B219614 from Toby Freeman of the University of South Carolina Police Department.

I tested the above item(s) using the following legally reliable forensic laboratory procedures approved by SLED:

☒ Chemical Test

☐ Microscopic Exam

☐ Infrared Spectroscopy

☒ Visual Examination

☒ Gas Chromatography

☒ Mass Spectroscopy

☒ Physical Test

☒ Published Literature

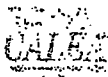
See Drug Analysis Report L13-12196 for Results.

Forensic Scientist

Willie C. Smith, III

Willie C. Smith, III

Date: October 03, 2013





**Law Office of
Mathias G. Chaplin, P.A.**

**4511 North Main Street
Columbia, SC 29203
Office: (803) 786-7102
Fax: (803) 691-0009**

August 12, 2013

Mr. Vincent Rice - Inmate
SCDC
PO Box 2039
Ridgeland, SC 29976

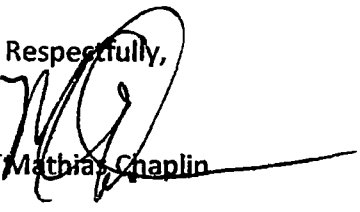
Mr. Rice,

Enclosed please find the missing drug analysis we discussed. I have discussed setting your plea date for the near future with the Solicitor. Please have your mother contact me so that we can stay in touch. I would like her to be at your plea.

As you know, you have a very extensive record. The State will be asking for an active sentence. Their offer at this time is a negotiated 5 years. You may take their offer or do an open plea with no negotiations. I will ask for a suspended sentence and probation with drug treatment.

You should look forward to being transported to Columbia in the near future. I will answer any questions you may have at that time.

Respectfully,


Mathias G. Chaplin

**PLAINTIFF'S
EXHIBIT**

3

ASK

TREE



DIVISION of LAW ENFORCEMENT and SAFETY
UNIVERSITY OF SOUTH CAROLINA

CHEMICAL ANALYSIS

PLAINTIFF'S
EXHIBIT

4

REPORT DATE:

03/25/2013

TO:

Sgt. Kellie Williams

EVIDENCE NO:

2289

SUBJECTS:

Vincent J. Rice

INC RPT NO:

12-04221

TEST DATE:

09/19/2013

ANALYZED BY:

D. Gindt

E. Smith
Sgt. Williams

EVIDENCE SUBMITTED	GRAMS	OZ	MICRO	CHEMICAL	RESULTS
Green Leafy Substance	0.46		+	+	Marijuana Found
The warrant stated 10.7g of weed. Was this the same weed?					

ORIGINAL: ARRESTING OFFICER

COPY: ARRESTING OFFICER

COPY: RECORDS

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Vincent Rice, #316178,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

2014-CP-40-01246

**ORDER GRANTING RELIEF IN PART
AND DENYING RELIEF IN PART**

RICHLAND COUNTY
FILED
2015
JAN 23 AM 10:42
J. A. WATKINS, CLERK

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed February 27, 2014. Respondent made its Return on June 26, 2014, requesting an evidentiary hearing be convened. Jonathan D. Waller, Esquire was appointed by the Richland County Clerk of Court. An evidentiary hearing was held on August 26, 2015, at the Richland County Courthouse. Applicant was present and represented by Counsel Waller. J. Clayton Mitchell, Esquire, of the South Carolina Attorney General's Office represented Respondent.

At the PCR hearing, Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, Mathias G. Chaplin, Esquire. This Court had before it the Richland County Clerk of Court records, Applicant's South Carolina Department of Corrections records, the PCR application, the Return, and the guilty plea transcript.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted during the March 2012 term of the Richland County Grand Jury for Possession with Intent to Distribute Marijuana (PWID), 3rd / Subsequent Offense (2012-GS-40-00888), Possession/Attempt to Possess Crack Cocaine – 3rd & Subsequent Offense (2012-GS-40-00889), Possession of

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SCANNED

Schedule I – V Controlled Substance – 2nd or Subsequent Offense (2012-GS-40-00890), and Possession with Intent to Distribute Cocaine, 3rd / Subsequent Offense (2012-GS-40-00891). Applicant was also indicted during the July 2012 term of the Richland County Grand Jury for Possession with Intent to Distribute Marijuana within Proximity of a School or Park (2012-GS-40-02680) and Possession with Intent to Distribute Cocaine within Proximity of a School or Park (2012-GS-40-02681), and during the April 2012 term for Possession with Intent to Distribute Marijuana (2012-GS-40-01613), Possession with Intent to Distribute Cocaine (2012-GS-40-01614), Possession of a Schedule I – V Drug (2012-GS-40-01616). Applicant was represented by Counsel Chaplin. On December 3, 2013, Applicant appeared before the Honorable DeAndrea G. Benjamin, where he pleaded guilty pursuant to Alford¹. Judge Benjamin sentenced Applicant as follows:

Indictment Number	Indicted Charge	Pleaded Charge	Statute	Sentence
2012-GS-40-00889	Possession of less than one gram of cocaine base, 3 rd or subsequent	As indicted	§ 44-53-0375(A)	7 years
2012-GS-40-000888	Possession of other substance in Sch. I, II, III withd, 3 rd of subsequent	As indicted	§ 44-53-0370(b)(2)	7 years
2012-GS-40-01613	Possession of marijuana withd, 3 rd or subsequent	As indicted	§ 44-53-0370(b)(2)	7 years
2012-GS-40-00891	PWID Cocaine, 3 rd	PWID Cocaine, 2 nd	§ 44-53-0370(b)(1)	7 years
2012-GS-40-01614	PWID Cocaine, 3 rd	PWID Cocaine, 2 nd	§ 44-53-0370(b)(1)	7 years
2012-GS-40-02681	PWID Cocaine, near school	As indicted	§ 44-53-0445(B)(1)	7 years
2012-GS-40-00890	Possession of substance in Sch. I-V – 2 nd or subsequent	As indicted	§ 44-53-0370(d)(2)	2 years

¹ North Carolina v. Alford, 400 U.S. 25 (1970).

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2012-GS-40-01616	Possession of substance in Sch. I-V, 2 nd or subsequent	As indicted	§ 44-53-0370(d)(2)	2 years
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Counsel filed a notice of appeal at Applicant's ^{July} request. The South Carolina Court of Appeals dismissed Applicant's ^{July} appeal for failure to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv), SCACR. The Remittitur was sent on March 19, 2014

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

1. Involuntary and unintelligent guilty plea;
2. Counsel failed to object when Applicant was sentenced to two years imprisonment on indictment numbers 2012-GS-40-00890 and 2012-GS-40-1616 where the maximum allowed by S.C. § 44-53-370(d)(2) is one year imprisonment.
3. Counsel failed to challenge the State's evidence.
 - a. Applicant's charge of PWID Cocaine, 3rd and PWID Cocaine, near school, as the analyses concluded the substance was crack.
 - b. Counsel failed to challenge the drug analyses because of discrepancies in the weights of the marijuana and cocaine base.
 - c. Counsel failed to challenge the chain of custody relating to the marijuana charge.

II. APPLICABLE LAW

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel

rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

As a matter of general impression, this Court finds Applicant's testimony and assertions to be not credible. In contrast, this Court finds counsel's testimony to be credible and persuasive.

These credibility findings have been applied to the Court's findings and conclusions set forth below.

Involuntary and Unintelligent Guilty Plea

Applicant argues he did not plead guilty knowingly and voluntarily. Applicant argues he pled guilty on the faulty advice of Counsel. He testified Counsel did not review the State's evidence with him and believes he could have successfully challenged admission of some of the State's evidence. He testified he did not have a full understanding of how the State planned to prove their case. He noted that he and Counsel never discussed whether he should go to trial. He also testified Counsel did not review the charges with him. He testified Counsel advised him that he would serve 65% of his sentence and that his prior drug convictions would be admitted before the jury.

Counsel testified he met with Applicant numerous times where he reviewed all discovery materials. Counsel noted Applicant was previously represented by Mark A. Sawyer, Esquire, and that Applicant received copies of some discovery from him. Counsel testified he did not believe Applicant appreciated everything he said. Counsel noted Applicant had copies of discovery in a folder that he had with him in their meetings. Counsel testified he was prepared to take the case to trial where he would challenge all evidence the State intended to offer including law enforcement's search and seizure of the drugs, a possible break in the chain of custody, discrepancies in the weights of the drugs, and discrepancies in the results of the drug analysis reports. Counsel explained that according to law enforcement, Applicant was found asleep in his car with drugs in his lap. Counsel testified that in order to convince the jury that law enforcement's version of events is not accurate, Applicant would have to take the stand. Counsel

explained that Applicant's prior convictions may then be used to impeach him on cross examination.

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

Applicant claims he did not plead guilty knowingly and voluntarily for a number of reasons. This Court finds these contentions without merit. This Court finds the record reflects Applicant was advised of the waiver of his constitutional rights by the plea court. Applicant's testimony regarding Counsel's advice and actions is not credible. This Court finds very credible Counsel's testimony regarding his preparation and advice concerning the case and the amount of time Applicant was facing. Counsel's testimony that he reviewed the charges, possible

punishment, and the discovery materials is persuasive. Counsel also noted that he believed Applicant to have a full understanding of the rights he was waiving by pleading guilty and did so voluntarily. This Court finds Applicant took advantage of a favorable plea offer to avoid facing exposure of upwards of 140 years' imprisonment. Counsel's testimony as to his advice of how Applicant's prior convictions may be presented to the jury is also credible and persuasive.

The record reflects Applicant pleaded guilty pursuant to Alford and conceded that the State had sufficient evidence to convict him at trial. This Court finds that Applicant presented *no* evidence that he was coerced or forced to plead guilty. This Court finds Applicant's intent to plead guilty was made clear to the plea judge. Applicant was fully informed of the nature and consequences of his plea by his attorney and was advised further by the plea court.

As far as Applicant has alleged Counsel did not properly advise him of the details of the plea agreement, this Court finds otherwise. Applicant's reliance on Davie v. State, 381 S.C. 601, 608, 675 S.E.2d 416, 420 (2009) is misplaced. Davie deals with uncommunicated plea offers that were not accepted. Here, Applicant accepted the State's offer. Applicant's allegation is more appropriately framed as an allegation that he did not plead knowingly and voluntarily. The plea terms called for a negotiated range of five (5) to ten (10) years' imprisonment with the State allowing Applicant to plead down from PWID Cocaine, 3rd offense to PWID^{1st} Cocaine, 2nd offense. This Court finds Applicant pled with full knowledge of the plea agreement. This Court finds the plea judge correctly found Applicant's plea was freely, ^{voluntarily} ~~voluntary~~, and intelligently made. This allegation is denied and dismissed with prejudice.

Ineffective Assistance of Counsel

Failure to object to the sentences imposed on two counts of Possession of a Sch. I-V Substance, 2nd or Subsequent

Applicant further alleges Counsel was ineffective in failing to object to the sentences of two (2) years' on the Possession of a Substance in Sch. I-V, 2nd or Subsequent. Applicant argues these sentences exceed the maximum allowed by statute. This Court agrees. It is clear Applicant pled and was sentenced pursuant to S.C. Code Ann. § 44-53-370(d)(2) (amended 2012)². South Carolina Code Ann. § 44-53-370(d)(2) provides: "A person who violates subsection (c) with respect to: (2) any other controlled substance classified in Schedules I through V is guilty of a misdemeanor . . . For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than *one year* or fined not more than two thousand dollars, or both," (emphasis added). This Court orders the limited relief of resentencing for 2012-GS-40-00890 and 2012-GS-40-01616 to allow the court to sentence Applicant within the range provided by statute.

Counsel failed to challenge the State's evidence.

Applicant further alleges Counsel was ineffective in failing to challenge the State's evidence. Specifically, Applicant argues that the analysis regarding the cocaine showed that the substance was actually crack cocaine. Applicant believes Counsel should have challenged the charges on those grounds. Applicant also argues Counsel was deficient in failing to challenge the drug analyses because of discrepancies in the weights of the marijuana and cocaine base. Finally, Applicant argues Counsel was deficient in failing to challenge the chain of custody relating to the marijuana charge.

² This Court notes that S.C. Code § 44-53-370 was amended June 18, 2012. The penalty provision was not amended.

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

This Court finds this allegation is not proper for this forum. Applicant must have taken this case to trial and argued for dismissal of the charges at that stage. Instead, he admitted the truth to the allegations set forth in the indictments at the plea hearing. Applicant may not now challenge the sufficiency of the evidence. Any challenge to the evidence has been waived.

In any event, Applicant has failed to meet his burden in proving Counsel was ineffective and that he was prejudiced by any alleged deficiency. This Court finds Counsel made a reasonable strategic decision in not advising Applicant to go to trial when offered such a favorable plea deal. It is noteworthy that Applicant was facing significant prison time: more than 140 years. It was certainly reasonable for Counsel to advise Applicant to plead guilty to the charges even though he believed he had arguments to challenge the admissibility of certain pieces of evidence.

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Counsel testified he did not attempt to challenge the cocaine charges on the grounds that the substance was actually crack. This Court finds that decision was strategic and proper because the penalties under a crack charge are more severe than the penalties Applicant was currently facing.

As to the discrepancies in the weight of the drugs, Counsel credibly testified that he brought this to the attention of the prosecuting solicitor and attempted to negotiate a more favorable deal. He testified the prosecuting solicitor would not agree to drop any of the charges in advance of trial even after he made her aware of his concerns with whether the weights would support the charges. Counsel credibly testified that he planned to challenge the weight of the drugs if the case had gone to trial. He used this information to Applicant's advantage in plea negotiations. This Court finds Counsel's actions were appropriate and that Applicant has failed to prove deficiency or any resulting prejudice.

Finally, although Applicant argues there is an inconsistency in the chain of custody on the marijuana custody form, this Court finds Applicant has not presented sufficient evidence to prove that the evidence must be excluded due to issues with the chain. State v. Hatcher, 392 S.C. 86, 95, 708 S.E.2d 750, 755 (2011) ("The ultimate goal of chain of custody requirements is simply to ensure that the item is what is purported to be."). It is very likely that the State could prove a proper chain if needed. Importantly, Counsel credibly testified that he also would have challenged the admissibility of the marijuana evidence if the case had gone to trial. Applicant has failed to meet his burden in proving deficiency and prejudice.

All Other Allegations

As to any and all allegations that were raised in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations.

Accordingly, the Court finds Applicant has abandoned any such allegations.

IV. CONCLUSION

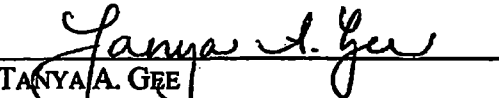
Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate counsels' ^{my} performance was unreasonable under prevailing professional norms. Cherry,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

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

IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is granted on the limited ground that Applicant was sentenced to more than the maximum provided by statute on indictments 2012-GS-40-0890 and 2012-GS-40-01616;
2. The sentence entered by the Richland County Clerk of Court for indictment numbers 2012-GS-40-0890 and 2012-GS-40-01616 is vacated;
3. The matter is remanded to the Honorable DeAndrea G. Benjamin for a limited resentencing hearing to allow the court to sentence Applicant within the range provided by statute on indictments 2012-GS-40-0890 and 2012-GS-40-01616 only;
4. All other allegations raised are denied and dismissed with prejudice; and
5. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 29th day of October, 2015.


TANYA A. GEE
Presiding Judge

Columbia, South Carolina

WITNESSES

(S) A.R. ANDERSON - Columbia Police
Department

ARREST WARRANT NUMBER

K690308

ACTION OF GRAND JURY**TRUE BILL**

Margaret K. Dickinson
Foreperson of Grand Jury
Date: *MAR 08 2012*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-40-00888**The State of South Carolina****County of****Richland****COURT OF GENERAL SESSIONS****MARCH TERM 2012**

159

**THE STATE
vs.****Vincent Rice**

After being f
legal rights,
to the Grand

Defendant

I
hereby appe
guilty to the

Defendant

Witness:

C.C.C. PLS.

**Indictment for
POSSESSION WITH INTENT TO
DISTRIBUTE MARIJUANA, 3RD/
SUBSEQUENT OFFENSE**

**SC Code: 44-53-0370(b)(2)
CDR Code: 0186**

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

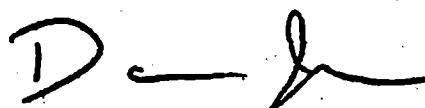
INDICTMENT

At a Court of General Sessions, convened on MARCH 7, 2012, the
Grand Jurors of Richland County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE MARIJUANA**3RD / SUBSEQUENT OFFENSE**

That VINCENT RICE did in Richland County on or about December 11, 2011, manufacture, distribute, dispense, deliver, purchase, or aid; abet, attempt, or conspire to manufacture; distribute, dispense, deliver, or purchase; or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Marijuana, a controlled substance under the provisions of Section 44-53-110, et seq., Code of Laws of South Carolina, 1976, as amended, such distribution not having been authorized by law, and being in violation of Section 44-53-370(b)(2), Code of Laws of South Carolina, 1976, as amended, such not being a first offense.

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

Vincent Rice

AKA:

Race: BLACK Sex: M Age: 31

DOB: SS#:

Address:

City, State, Zip: EASTOVER, SC 29044

DL#: SID#:

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

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

TO: Drugs / Manuf., poss. of other sub. in Sch. I, II, III or flunitrazepam, w.i.t.d. - 3rd or sub. offe

in violation of § 44-53-0370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0188

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

ATTEST:

ALL, BRITTON

78660

SC Bar#

Defendant

Attorney for Defendant

69874

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed 1 years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

JURY
\$0-\$20K

INDICTMENT/CASE#: 2012GS4000888 ✓

A/W#: K690308

Date of Offense: 12/11/2011

S.C. Code § : 44-53-0370(b)(2)

CDR Code #: 0188

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSThe 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.

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Total: \$ plus 20% fee: \$

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3% to County (if paid in installments)	\$
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Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

JURY
\$0-\$20K

INDICTMENT/CASE#: 2012GS4000888 ✓

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§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

JURY
\$0-\$20K

INDICTMENT/CASE#: 2012GS4000888 ✓

A/W#: K690308

Date of Offense: 12/11/2011

S.C. Code § : 44-53-0370(b)(2)

CDR Code #: 0188

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSThe 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:

ALL, BRITTON

78660

SC Bar#

Defendant

Attorney for Defendant

69874

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed 1 years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

JURY
\$0-\$20K

INDICTMENT/CASE#: 2012GS4000888 ✓

A/W#: K690308

Date of Offense: 12/11/2011

S.C. Code § : 44-53-0370(b)(2)

CDR Code #: 0188

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSThe 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:

ALL, BRITTON

78660

SC Bar#

Defendant

Attorney for Defendant

69874

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed 1 years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

JURY
\$0-\$20K

INDICTMENT/CASE#: 2012GS4000888 ✓

A/W#: K690308

Date of Offense: 12/11/2011

S.C. Code § : 44-53-0370(b)(2)

CDR Code #: 0188

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSThe 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:

ALL, BRITTON

78660

SC Bar#

Defendant

Attorney for Defendant

69874

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed 1 years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐

After being fi
legal rights, I
to the Grand

WITNESSES

(S) A.R. ANDERSON – Columbia Police
Department

ARREST WARRANT NUMBER

K690309

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

MAR 08 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-40-00889

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2012

159

THE STATE

vs.

VINCENT RICE

Defendant

I
hereby appe
guilty to the

Defendant

Witness:

C.C.C. PLS.

**Indictment for
POSSESSION/ATTEMPT TO POSSESS
CRACK COCAINE-3RD & SUBSEQ**

SC Code: 44-53-0375(A)

CDR Code: 3016

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

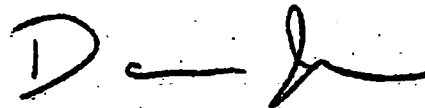
INDICTMENT

At a Court of General Sessions, convened on MARCH 7, 2012, the
Grand Jurors of Richland County present upon their oath:

POSSESSION OF CRACK COCAINE

That VINCENT RICE did in Richland County on or about December 11, 2011,
knowingly, willfully, and intentionally possess or attempt to possess a quantity of
Crack Cocaine, a controlled substance under provisions of Section 44-53-110, et
seq., S.C. Code of Laws, 1976, as amended, such possession not having been
authorized by law and being in violation of Section 44-53-375(A), S. C. Code of
Laws, 1976, as amended, such not being a first offense. ✓

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Richland
 STATE VS.
Vincent Rice

AKA: _____
 Race: BLACK Sex: M Age: 31
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: EASTOVER, SC 29044
 DL#: _____ SID#: _____

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

In disposition of the said indictment comes now the Defendant who was
 TO: Drugs / Possession of less than one gram of cocaine base, 3rd or sub. offense

in violation of § 44-53-0375(A) of the S.C. Code of Laws, bearing CDR Code # 3016
☒ 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 initial*)

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

ATTEST: ALL, BRITTON 78660 x V. R. cap of 10 yrs 6874
 ALL, BRITTON 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 7 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

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

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

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

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

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

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

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

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

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

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

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

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

TOTAL \$ _____

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS4000889 ✓

A/W#: K690309

Date of Offense: 12/11/2011

S.C. Code § 44-53-0375(A)

CDR Code #: 3016

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Presiding Judge

Judge Code: 216

Sentence Date: 12-13-13

CERTIFIED TRUE COPY
 OF ORIGINAL FILED.

Jeanette W. McBride
 C.C.C.P.&G.S.

216
 RICHLAND COUNTY
 SOUTH CAROLINA

WITNESSES

(S) A.R. ANDERSON – Columbia Police
Department

ARREST WARRANT NUMBER

K690310

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

MAR 08 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-40-00890

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2012

159

THE STATE

vs.

VINCENT RICE

After being
legal rights,
to the Gran

Defendant

I
hereby app
guilty to the

Defendant

Witness:

C.C.C. PLS

Indictment for
POSS SCHED I-V DRUG – 2nd or
SUBSEQ OFFENSE

SC Code: 44-53-0370(d)(2)

CDR Code: 0180

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on MARCH 7, 2012, the
Grand Jurors of Richland County present upon their oath:

POSSESSION OF SCHEDULE I - V CONTROLLED SUBSTANCE

That VINCENT RICE did in Richland County on or about December 11, ✓
2011, knowingly and intentionally possess a quantity of AMPHETAMINE, a
SCHEDULE II controlled substance under provisions of Section 44-53-
0110, S.C. Code of Laws, 1976, as amended, such possession not having
been authorized by law, in violation of Section 44-53-0370(d)(2), S.C.
Code of Laws, 1976, as amended, such not being a first offense.

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



DAN JOHNSON, SOLICITOR

After being fi
legal rights,
to the Grand

WITNESSES

(S) A.R. ANDERSON - Columbia Police
Department

ARREST WARRANT NUMBER

K690311

ACTION OF GRAND JURY

TRIEBIL

Margaret A. Dickinson
Foreperson of Grand Jury
Date: **MAR 08 2012**

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-40-00891

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

MARCH TERM 2012

159

**THE STATE
vs.**

VINCENT RICE

Defendant

I
hereby appe
guilty to the

Defendant

Witness:

C.C.C. PLS.

**Indictment for
PWID COCAINE
3RD/SUBSEQ OFFENSE**

SC Code: 44-53-0370(b)(1)
CDR Code: 0185

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

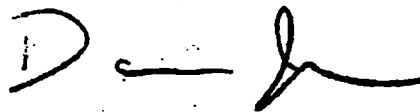
INDICTMENT

At a Court of General Sessions, convened on MARCH 7, 2012, the
Grand Jurors of Richland County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE COCAINE**3rd/SUBSEQUENT OFFENSE**

That VINCENT RICE did in Richland County, on or about December 11, 2011, ✓
possess with intent to distribute, dispense or deliver, or did aid, abet, attempt or
conspire to distribute, dispense, or deliver a quantity of Cocaine, a controlled
substance under provisions of Section 44-53-110, et. seq., Code of Laws of South
Carolina, 1976, as amended, such possession not having been authorized by law,
and being in violation of Section 44-53-370(b)(1), S. C. Code of Laws, 1976, as
amended, such not being a first offense.

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



DAN JOHNSON, SOLICITOR

COUNTY OF Richland
STATE VS.
Vincent Rice

AKA:

Race: BLACK Sex: M Age: 31DOB: SS#:

Address:

City, State, Zip: EASTOVER, SC 29044DL#: SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Drugs / MDP, PWID Cocaine - 2nd offenseINDICTMENT/CASE#: 2012GS4000891 ✓A/W#: K690311Date of Offense: 12/11/2011S.C. Code § : 44-53-0370(b)(1)CDR Code #: 0185

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 44-53-0370(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0184☒ NON-VIOLENT ☐ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

ALL BRITTON78660
SC Bar#V. R.
DefendantM. A. G.
Attorney for Defendant69874
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 1 yr☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

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

Clerk of Court/ Deputy Clerk

Court Reporter:

CA/217 (03/2011)

PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to during probation.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,

Presiding Judge

Judge Code: 210Sentence Date: 12-3

C.C.C.P.&G.S.

RICHLAND COUNTY

SOUTH CAROLINA

WITNESSES

(S) K WILLIAMS - USCPD

ARREST WARRANT NUMBER

DP12073

ACTION OF GRAND JURY**TRUE BILL**

Foreperson of Grand Jury

Date:

APR 11 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-40-01613**The State of South Carolina****County of****Richland****COURT OF GENERAL SESSIONS****APRIL TERM 2012**

159

THE STATE**vs.****Vincent Jermaine Rice**After being fu
legal rights, I
to the Grand

Defendant

I
hereby appea
guilty to the v

Defendant

Witness:

C.C.C. PLS.

**Indictment for
POSSESSION WITH INTENT TO
DISTRIBUTE MARIJUANA****SC Code: 44-53-0370(b)(2)****CDR Code: 0186**

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

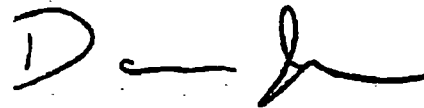
INDICTMENT

At a Court of General Sessions, convened on APRIL 11, 2012, the
Grand Jurors of Richland County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE MARIJUANA

That VINCENT RICE did in Richland County on or about January 25, 2012, manufacture, distribute, dispense, deliver, purchase, or aid; abet, attempt, or conspire to manufacture; distribute, dispense, deliver, or purchase; or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Marijuana, a controlled substance under the provisions of Section 44-53-110, et seq., Code of Laws of South Carolina, 1976, as amended, such distribution not having been authorized by law, and being in violation of Section 44-53-370(b)(2), Code of Laws of South Carolina, 1976, as amended, such not being a first offense.

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF

Richland

STATE

VS.

Vincent Jermaine Rice

AKA:

Race: BLACK Sex: M Age: 31

DOB: SS#:

Address:

City, State, Zip: EASTOVER, SC 29044

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Drugs / MDP, poss. of Marijuana w.i.t.d. - 3rd or sub. offenseIN THE COURT OF GENERAL SESSIONS 20yrs or
FO-820,000

INDICTMENT/CASE#: 2012GS4001613 ✓

A/W#: DP12073

Date of Offense: 1/25/2012

S.C. Code § : 44-53-0370(b)(2)

CDR Code #: 0188

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 44-53-0370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0188

☒ 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:

ALE, BRITTON

78660
SC Bar#

Defendant

Attorney for Defendant

69874
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 2 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

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

_____ 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:

ATU

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.CERTIFIED TRUE COPY
OF ORIGINAL FILED,
C.C.C.P.&G.S.
12-31-12
SOUTH CAROLINA

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

After being fi
legal rights, I
to the Grand

WITNESSES

(S) K WILLIAMS - USCPD

DOCKET NO. 2012-GS-40-01614

The State of South Carolina

County of

Richland

Defendant

I
hereby appe
guilty to the v

COURT OF GENERAL SESSIONS

APRIL TERM 2012

159

ARREST WARRANT NUMBER

DP12074

Defendant

Witness:

C.C.C. PLS.

ACTION OF GRAND JURY

THE STATE

VS.

Vincent Jermaine Rice

TRUE BILL

Foreperson of Grand Jury
Date:

APR 11 2012

VERDICT

Foreperson of Petit Jury
Date:

**Indictment for
POSSESSION WITH INTENT TO
DISTRIBUTE COCAINE**

**SC Code: 44-53-0370(b)
CDR Code: 0183**

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

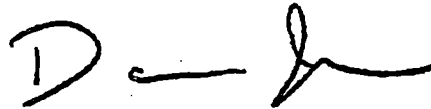
INDICTMENT

At a Court of General Sessions, convened on APRIL 11, 2012, the
Grand Jurors of Richland County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE COCAINE

That Vincent Jermaine Rice did in Richland County on or about January 25, 2012, ✓
possess with intent to distribute, dispense or deliver, or did aid, abet, attempt, or
conspire to distribute, dispense, or deliver a quantity of Cocaine, a controlled
substance under the provisions of Section 44-53-110, et.seq., Code of Laws of
South Carolina, 1976, as amended, such distribution not having been authorized
by law, and being in violation of Section 44-53-370(b)(1), et. seq., Code of Laws
of South Carolina, 1976, as amended, such not being a first offense..

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



DAN JOHNSON, SOLICITOR

COUNTY OF Richland
 STATE VS.
Vincent Jermaine Rice
 AKA: _____
 Race: BLACK Sex: M Age: 31
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: EASTOVER, SC 29044
 DL#: _____ SID#: _____

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

In disposition of the said indictment comes now the Defendant who was
 TO: Drugs / MDP, poss. Cocaine w.i.t.d. - 2nd offense

INDICTMENT/CASE#: 2012GS4001614 ✓
 A/W#: DP12074
 Date of Offense: 1/25/2012
 S.C. Code § : 44-53-0370(b)(1)
 CDR Code #: 0185

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 44-53-0370(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0184
☒ 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: ALL BRITTON 78660 V. R. cap of 10 yrs Male Ad 69874
 ALL BRITTON 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 7 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. 1 yr

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

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

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other: _____

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

CERTIFIED TRUE COPY
 OF ORIGINAL FILED,
 J. J. McBride
 C.C.C.P. & G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA

Clerk of Court/ Deputy Clerk: J. J. McBride

Court Reporter: B. Kelly

CCA/217 (03/2011)

Presiding Judge

Judge Code: 2161

Sentence Date: 12-3

WITNESSES

(S) Kellie Williams - USCPD

ARREST WARRANT NUMBER

DP12075

ACTION OF GRAND JURY**TRUE BILL**Foreperson of Grand Jury
Date:

APR 11 2012

VERDICTForeperson of Petit Jury
Date:**DOCKET NO. 2012-GS-40-01616****The State of South Carolina****County of****Richland****COURT OF GENERAL SESSIONS****APRIL TERM 2012**

159

**THE STATE
vs.****Vincent Jermaine Rice**After being fi
legal rights, I
to the Grand

Defendant

I
hereby appe
guilty to the

Defendant

Witness:

C.C.C. PLS.

**Indictment for
POSSESSION SCHEDULE I-V DRUG**SC Code: 44-53-0370(d)(2)
CDR Code: 0180

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

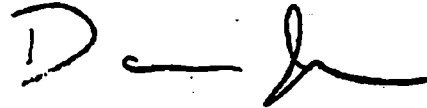
INDICTMENT

At a Court of General Sessions, convened on APRIL 11, 2012, the
Grand Jurors of Richland County present upon their oath:

POSSESSION OF SCHEDULE I - V DRUG

That Vincent Jermaine Rice did in Richland County on or about January
25, 2012, knowingly and intentionally possess a quantity of a controlled
substance under provisions of Section 44-53-0110, S.C. Code of Laws,
1976, as amended, such possession not having been authorized by law, in
violation of Section 44-53-0370(d)(2), S.C. Code of Laws, 1976, as
amended.

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

Vincent Jermaine Rice

AKA:

Race: BLACK Sex: M Age: 31

DOB: SS#:

Address:

City, State, Zip: EASTOVER, SC 29044

DL#: SID#:

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

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

TO: Drugs / Poss. of other controlled sub. in Sched. I to V - 2nd or sub. offense

in violation of § 44-53-0370(d)(2) of the S.C. Code of Laws, bearing CDR Code # 0180

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: ALL, BRITTON 78660 V. R. Mal. Ag. 67874
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 2 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

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

IN THE COURT OF GENERAL SESSIONS

FO-#2,000

INDICTMENT/CASE#: 2012GS4001616 ✓

A/W#: DP12075

Date of Offense: 1/25/2012

S.C. Code § : 44-53-0370(d)(2)

CDR Code #: 0180

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSPTUP _____
_____ days/hours Public Service EmploymentObtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

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

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.CERTIFIED TRUE COPY
OF ORIGINAL FILED,

C.C.C.P.&G.S.

RICHLAND COUNTY

SOUTH CAROLINA

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2161

Sentence Date: 1-2-3

After being fi
legal rights, I
to the Grand

WITNESSES**(S) K WILLIAMS - USCPD****Defendant**

I
hereby appe
guilty to the v

Defendant**Witness:****C.C.C. PLS.****DOCKET NO. 2012-GS-40-02680****The State of South Carolina****County of****Richland****COURT OF GENERAL SESSIONS****JULY TERM 2012**

159

THE STATE**vs.****Vincent Jermaine Rice****ARREST WARRANT NUMBER****DP12117****ACTION OF GRAND JURY****TRUE BILL**

Jill Koenig
Foreperson of Grand Jury

Date: *JUL 19 2012*

VERDICT

Indictment for
POSSESSION WITH INTENT TO
DISTRIBUTE MARIJUANA WITHIN
PROXIMITY OF SCHOOL OR PARK

SC Code: 44-53-0445(A)**CDR Code: 0107**

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on JULY 18, 2012, the
Grand Jurors of Richland County present upon their oath:

**POSSESSION WITH INTENT TO DISTRIBUTE
MARIJUANA IN PROXIMITY TO SCHOOL OR PARK**

That Vincent Jermaine Rice did in Richland County, on or about January 25, 2012 unlawfully possess with intent to distribute, dispense, or deliver a quantity of Marijuana, a controlled substance under provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, while in, on, or within a one-half mile radius of the grounds of a public or private school, college or university, a public playground or park, or a public vocational or trade school or technical education center, to wit: UNIVERSITY OF SOUTH CAROLINA, in violation of Section 44-53-0445(B), S. C. Code of Laws, 1976, as amended.

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



DAN JOHNSON, SOLICITOR

COUNTY OF Richland
STATE VS.
Vincent Jermaine Rice
AKA: _____
Race: BLACK Sex: M Age: 31
DOB: _____ SS#: _____
Address: _____
City, State, Zip: EASTOVER, SC 29044
DL#: _____ SID#: _____

Presiding Judge 2161 G.C.C.P.&G.S.
Judge Code: 12-3 BIGLAND COUNTY
Sentence Date: 12-3 NORTH CAROLINA

WITNESSES**(S) K WILLIAMS - USCPD****ARREST WARRANT NUMBER****DP12118****ACTION OF GRAND JURY****TRUE BILL**

Gill Koenig
Foreperson of Grand Jury
Date: JUL 19 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-40-02681**The State of South Carolina****County of****Richland****COURT OF GENERAL SESSIONS****JULY TERM 2012**

159

**THE STATE
vs.****Vincent Jermaine Rice**

**Indictment for
POSSESSION WITH INTENT TO
DISTRIBUTE COCAINE WITHIN
PROXIMITY OF SCHOOL OR PARK**

**SC Code: 44-53-0445(A)
CDR Code: 0107**

After being fi
legal rights, I
to the Grand

Defendant

I
hereby appe
guilty to the

Defendant

Witness:

C.C.C. PLS.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

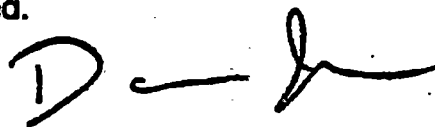
INDICTMENT

At a Court of General Sessions, convened on JULY 18, 2012, the
Grand Jurors of Richland County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE
COCAINE IN PROXIMITY TO SCHOOL OR PARK
CDR: 0107 §44-53-0445(A)

That Vincent Jermaine Rice did in Richland County, on or about January 25, 2012,
unlawfully possess with intent to distribute, dispense, or deliver a quantity of
Cocaine, a controlled substance under provisions of Section 44-53-110, et. seq., S.
C. Code of Laws, 1976, as amended, while in, on, or within a one-half mile radius
of the grounds of a public or private school, college or university, a public
playground or park, or a public vocational or trade school or technical education
center, to wit: UNIVERSITY OF SOUTH CAROLINA, in violation of Section
44-53-445(B), S. C. Code of Laws, 1976, as amended.

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

Vincent Jermaine Rice

AKA:

Race: BLACK Sex: M Age: 31

DOB: SS#: [REDACTED]

Address: Rd

City, State, Zip: Eastover, SC 29044-9255

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Drugs / Distribute, sell, purchase, manuf. drug, or pwid, near school

in violation of § 44-53-0445(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0107

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

ATTEST:

ALL BRITTON

78660
SC Bar#

Defendant

Attorney for Defendant

69874
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 7 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

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

IN THE COURT OF GENERAL SESSIONS

up to \$10,000

INDICTMENT/CASE#: 2012GS4002681✓

A/W#: DP12118

Date of Offense: 1/25/2012

S.C. Code § 44-53-0445(B)(1)

CDR Code #: 0107

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

_____ 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: ATV☐ Appointed PD or appointed other counsel
§ 47.12 requires \$500 be paid to Clerk
during probation.CERTIFIED TRUE COPY
OF ORIGINAL FILEDJ. W. McBride
G.C.C.P.&G.S.RICHLAND COUNTY
SOUTH CAROLINA

Clerk of Court/ Deputy Clerk:

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date: