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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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Certiorari to Spartanburg County

Honorable Edward W. Miller, Circuit Court Judge

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MARK STEPHEN WINGO,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-000991

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APPENDIX

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG	)	
The State,	)	
	)	TRANSCRIPT OF RECORD
-vs-	)	2015-GS-42-0826,-1460,-1466
	)	
Mark Stephen Wingo,	)	
	)	March 27, 2015
Defendant.	)	Spartanburg, South Carolina

B E F O R E:

HONORABLE J. MARK HAYES, II, JUDGE

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

JAMES ZACHARY FARR, ESQUIRE  
Attorney for the State

MICHAEL DEMORRIS BROWN, ESQUIRE  
Attorney for the Defendant

Margaret A. Woods  
Circuit Court Reporter

1 MR. FARR: Your Honor, may I approach real quick?

2 THE COURT: (No verbal response.)

3 (Whereupon, counsel approached the bench.)

4 MR. FARR: Your Honor, here's a flow chart of Mark Wingo.  
5 I've already given one to Mike Brown. Your Honor, may it  
6 please the Court. We're here in the matter of Mark Wingo on  
7 nine indictments, he is represented by Mike Brown of the  
8 private bar. First indictment is 15-GS-42-1460 for the charge  
9 of, uh, contraband in the prison which is 0 to 10 years, there  
10 is no recommendation on that, Your Honor. We're also here on  
11 15-GS-42-1466 for contraband in the prison, again, there's no  
12 recommendation on that charge, Your Honor. We're also here on  
13 15-GS-42-1467 for contraband in a prison, no recommendation on  
14 that charge, Your Honor. We're also here on 15-GS-42-0659 for  
15 possession of cocaine first offense, no recommendation on  
16 that, Your Honor. We're also here on 2015-GS-42-00658 for the  
17 attempt to purchase, uh, over the legal limit of  
18 pseudoephedrine, Your Honor, in a 30-day period, no  
19 recommendation on that, Your Honor. We're also here on  
20 2015-GS-42-00660 for attempt to buy the pseudoephedrine over  
21 9 grams within a 30-day period, there's no recommendation on  
22 that charge either, Your Honor. We're also here on  
23 2015-GS-42-00661 on the charge of attempt to buy over the  
24 legal limit a 9 grams a pseudoephedrine in a 30-day period,  
25 there's no recommendation on that either, Your Honor. We're

1 also here on 15-GS-42-1461 for use of a vehicle without  
2 permission, uh, statute under (A) which is 0 to 1 year, there  
3 is no recommendation on that, e -- your -- either, Your Honor,  
4 but there's a restitution order of \$500 that the defendant has  
5 signed and we're also here on 2015-GS-42-00826 for shoplifting  
6 per the enhancement, there's no recommendation on any of these  
7 charges, Your Honor.

8 THE COURT: You are Mr. Wingo?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Please raise your right hand, let the clerk a  
11 court swear you in, sir.

12 MARK STEPHEN WINGO, having  
13 been first duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 EXAMINATION BY THE COURT:

16 Q. Alright, Mr. Wingo, it is your intent to enter a plea to  
17 the charges that were announced by the solicitor?

18 A. Uh, yes, sir.

19 Q. Alright. And how old are you, sir?

20 A. I'm 44, sir.

21 Q. How far did you go in school?

22 A. Uh, originally, uh, to the eleventh grade, I have  
23 obtained GED in prison when I was 42.

24 Q. And presently are you married, single, divorced, or  
25 widowed?

1 A. I'm divorced.

2 Q. Do ya have any children?

3 A. Uh, yes, I have three stepchildren, three biological  
4 sons.

5 Q. And how ---

6 A. Three stepdaughters, I'm sorry.

7 Q. And how old are your biological children?

8 A. Fifteen, uh, nineteen and, uh, twenty-five.

9 Q. And prior to your arrest on these charges did you have a  
10 a job outside of the home?

11 A. Uh, no, sir, other than just bein' self-employed tryin'  
12 to, uh, get my construction business back and going that  
13 didn't do too well.

14 Q. Have you ever served in the military?

15 A. No, sir.

16 Q. And on these charges how long have you been in jail?

17 A. Only a couple weeks, Your Honor, on this then I did like  
18 fifty somethin' on the others, I don't know total.

19 (Whereupon, a discussion was held off the record.)

20 Q. Within the last twenty-four hours have you consumed any  
21 type of substance that is adversely affecting your ability to  
22 understand what we're doing today?

23 A. No, sir.

24 Q. Have you ever been treated for any type a substance abuse  
25 issues for drug or alcohol problem?

1 A. Nothing long term, Your Honor, just AA, NA, little stint  
2 here and there, you know.

3 Q. And was that for a drug or alcohol problem or both?

4 A. Yes, for basically both, mainly drugs though, Your  
5 Honor.

6 Q. Are you satisfied with the work that your lawyer has  
7 done?

8 A. Uh, yes, sir, very satisfied.

9 Q. And, sir, have you made the decision to enter these pleas  
10 today freely and voluntarily?

11 A. Yes, sir, I have.

12 Q. Nobody's threatened you in any way or promised you  
13 anything in order to get you to make the decision to enter  
14 these pleas?

15 A. No, sir.

16 Q. Sir, I need for you to understand that under the law you  
17 are presumed innocent of all of these charges and you do have  
18 a right to have a jury trial on any or all of these charges.  
19 At any jury trial that would take place, it would be the State  
20 has the burden of proof and the State would have to convince  
21 all twelve members of a jury that you are in fact guilty  
22 beyond a reasonable doubt. Now do you understand that you  
23 have a right to that jury trial?

24 A. Yes, sir.

25 Q. And do you wish to have a jury trial on any of these

1 charges?

2 A. No, sir.

3 Q. Sir, I need for you to understand that there are other  
4 very important constitutional right that you are entitled to  
5 but that you have to give up in order to enter these pleas:  
6 You have to give up your right to confront and cross-examine  
7 the State's witnesses, you also have to give up your right to  
8 present evidence which you or your lawyer might feel will  
9 establish a defense to these charges and you have to give up  
10 the right of subpoena as well as your right to remain silent,  
11 do you understand all those rights?

12 A. Yes, sir.

13 Q. And you wish to give them all up?

14 A. Yes, sir.

15 Q. Okay, sir, if if you would, uh, listen to the solicitor,  
16 he's gonna tell us the facts, I believe you've got one a the  
17 summary sheets like I've got so ---

18 A. Yes.

19 Q. --- you can follow along on that as well if you wish.

20 MR. FARR: Your Honor, can me and, uh, Mike Brown  
21 approach you real quick?

22 THE COURT: (No verbal response.)

23 (Whereupon, a bench conference was held off the record.)

24 MR. FARR: Your Honor, may it please the Court, uh,  
25 Indictment 15, uh, GS-42-0659, the State, uh, is takin' this

1 indictment back, we are not -- he's not gonna plead guilty to  
2 this indictment at this time, Your Honor.

3 THE COURT: Alright.

4 MR. FARR: Okay. May it please the Court, Your Honor.  
5 On Indictment 15-826, that's the shopliftin' third enhanced,  
6 uh, that was been true billed. On Friday the, uh, December  
7 26th 2014 the defendant was caught shopliftin' at the HD in  
8 Dorman, it was on video and he was collectin' items in the  
9 store then taking them to the back and then concealing them in  
10 his pants. Uh, the victims in that case, Your Honor, they  
11 want no contact with them.

12 Uh, on 15-460, contraband, that has not been true billed  
13 but he is waiving presentment to the Grand Jury. On March  
14 18th 2015 Mr. Wingo was arrested and for unlawful vehicle  
15 without permission and taken to the detention center, there it  
16 was determined he was concealin' a small quantity of meth in  
17 his mouth and, uh, I have Ser -- Sergeant Licurs, uh, that,  
18 uh, is present that can talk about that, Your Honor, at the  
19 right time.

20 On 15, Indictment 15-1466 and 67 for contraband in the  
21 jail, on February 27th 2015 the defendant was in the courtroom  
22 for a bond reinstatement hearin' which was granted. On the  
23 way out to the courtroom it was found to be handing off a  
24 quantity of contraband to his wife. A later search of  
25 Mr. Wingo on this same date also found him to be in possession

1 of of additional meth that was located in his mouth.

2 On Indictment 15-658, 660 and 661, that's all attempting  
3 to purch a amounta Sudafed over 9 grams within 30-day period.  
4 On the followin' days the defendant attempted to purchase more  
5 than permissible amount of meth, meth that, uh,  
6 pseudoephedrine: On November 10, 2014, uh, he was blocked at  
7 Target which wa -- is on video which is in Spartanburg County,  
8 then on October 28th 2014 he went to Walgreens, he was blocked  
9 again which is on video and that is in Spartanburg County,  
10 again, on October 28th 2014, that was at Target, again he was  
11 blocked, that is on video, Your Honor, that is in Spartanburg  
12 County and then last Indictment 15-1461 which is usin' a  
13 vehicle without permission, this happened on March 14, 2015,  
14 the victim in this case indicated that her brother used her  
15 vehicle without her, without her permission to drive, uh, he  
16 later claimed the vehicle was stolen and told her that he  
17 would bring it back with paperwork, he never did, the vehicle  
18 was also found wrecked. The victim in this which is attached  
19 to that indictment is a restitution order of \$500, Your Honor,  
20 that is all the facts, I do have Sear -- Sergeant Licurs here  
21 to talk about the contraband, Your Honor.

22 EXAMINATION BY THE COURT:

23 Q. Mr. Wingo, you believe that as the solicitor's summarized  
24 the facts that he is substantially correct?

25 A. Uh, Your Honor, he is, uh, correct on me pleadin' to all

1 of 'em but some a the facts are kinda mixed up a little bit.

2 Q. Do you believe though that as he presented the facts that  
3 he is substantially correct?

4 A. No, sir, not not substantially.

5 MR. BROWN: Substantially means for the most part.

6 A. Oh, for the most part, yes, sir. Yes, sir, I believe  
7 that for the most part, yes, sir, he is correct.

8 THE COURT: Okay.

9 MR. BROWN: Your Honor, I think in particular, uh, just a  
10 reference to Ms. Still who was, who's present, uh, she's the  
11 mother of Ms. Cindy Wingo, uh, he is actually a former  
12 son-in-law, he's not the brother of Ms. Still.

13 THE DEFENDANT: I'm still married.

14 THE COURT: Alright.

15 EXAMINATION BY THE COURT:

16 Q. And, sir, do you understand that on the contraband  
17 charges that I could sentence you up to 10 years on each of  
18 those charges?

19 A. Yes, sir.

20 Q. Do you understand on the use of vehicle without owner's  
21 permission I I could sentence you up to a year?

22 A. Yes, sir.

23 Q. And on the attempt to purchase pseudoephedrine that I  
24 could s -- uh, sentence you up to 2 1/2 years on each one of  
25 those?

1 A. Yes, sir.

2 Q. And on the shoplifting since that's a third subsequent  
3 property offense I could sentence you up to 10 years on that  
4 charge as well?

5 A. Yes, sir.

6 Q. Understanding the possible sentences I could impose, you  
7 still wish to enter these pleas?

8 A. Yes, sir, I do.

9 Q. Are you in fact guilty of all three of these unlawful  
10 attempt to purchase a pseudoephedrine charges?

11 A. Uh, yes.

12 Q. Are you also guilty of the shoplifting third and  
13 subsequent property offense charge?

14 A. Yes, sir.

15 Q. Are you also guilty of the unlawful use of vehicle  
16 charge?

17 A. Yes, sir.

18 Q. Are you also guilty of all three of these, uh, unlawful  
19 possession of contraband by a prisoner charge?

20 A. Yes, sir.

21 Q. Have all a your answers to my questions been truthful?

22 A. Yes, sir.

23 THE COURT: Discovery's been shared with the defense?

24 MR. FARR: Yes, Your Honor.

25 THE COURT: Prior record.

1 MR. FARR: Your Honor, it it's very lengthy. Uh, start  
2 at '92 he has one count of forgery; '93 possession a  
3 marijuana, resistin' arrest and seven counts of forgery; '94,  
4 a DUS third, habitual traffic traffic offender; '95, a DUS  
5 third, a habitual traffic traffic offender, obtainin' drugs by  
6 fraud, attemptin' to violate conspiracy drug laws; '97 CDV  
7 first; '98 obtainin' drugs by fraud, four counts of breakin'  
8 into motor vehicle, two counts of petit larceny, grand larceny  
9 and unlawful carryin' of a weapon; 2000 break into a motor  
10 vehicle, bad check and forgery 1 to 5,000; 2004 two counts a  
11 bad check; 2006 one count a grand larceny; 2007 shoplifting;  
12 2008 a traffic offense; 2009 shoplifting; 2010 two counts of  
13 property enhancements, one count a grand larceny and a bad  
14 check and then 2011 just a third subsequent property offense,  
15 Your Honor.

16 THE COURT: And, uh, are you presently on probation?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand that by entering these  
19 pleas it'll be a violation of your present probation case?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And you still wish to enter the pleas?

22 THE DEFENDANT: I do.

23 THE COURT: Alright. And, uh, we've got, uh, the officer  
24 wishes to address the Court on the contraband charges?

25 SERGEANT LICURS: Yes, sir, uh, Sergeant Brian Licurs for

1 the, uh, county jail. On this particular date, uh, we started  
2 out with the original contraband charge, was actually caught  
3 in this courtroom, we did not know what he had initially, so I  
4 had it investigated by the, uh, narcotics and had it tested,  
5 it come out to be Suboxone, well in that reference it was done  
6 in this courtroom in fronta Your Honor durin' his time he was  
7 in here for a bond revocation removal and then several hours  
8 later once I found out and confirmed that it was a narcotic  
9 and started signin' the charges for that one I had him  
10 searched again, then again he did not wanna give up, he had  
11 more additional Suboxone in his mouth and did not wanna give  
12 that up, and then he was, when he was arrested the third time  
13 or arrested on this last case and the contraband, he had it  
14 when he came into the jail again. Under the circumstances,  
15 Your Honor, out outta respect for the jail contraband is if I  
16 don't, you know, request a active sentence in this case, I  
17 would be wrong because all we're showin' the inmates is that,  
18 you know, they can get away with this kinda stuff and that's  
19 not what we need, so I'm asking for a maximum sentence in this  
20 case.

21 THE COURT: Thank you, sir. Uh, we've got the victim  
22 here on the unlawful use of vehicle with restitution, anything  
23 from that victim?

24 MS. STILL: No, I'm just here to support Mark.

25 THE COURT: Alright, and, uh, ma'am, can we have your

1 name?

2 MR. FARR: Stand up.

3 MS. STILL: Would -- Gloria Still.

4 THE COURT: Thank you, ma'am. Anything else from the  
5 State before ---

6 MR. FARR: No, Your ---

7 THE COURT: --- I hear from probation?

8 MR. FARR: Not from the State, Your Honor.

9 THE COURT: And he's presently on probation?

10 AGENT MANIGAN: Yes, Your Honor. Mr. Wingo was sentenced  
11 on February the 23rd of 2011 for the offense of shopliftin' a  
12 thousand dollars, that was his third o -- third or subsequent  
13 offense, Your Honor. He received a sentence of 10 years  
14 provided upon the service of 6 and the balance of 4 years  
15 probation with special conditions obtain GED, substance abuse  
16 counseling, random al -- alcohol and drug testing, must attend  
17 AA, NA meetings and intensive probation for the first year.  
18 Your Honor, immediately after Mr. Wingo was released from the  
19 Department of Corrections after serving the 6 years the  
20 probation office started receiving phone calls of his  
21 activities with various calls of he was doin' drugs, he was in  
22 a drug house so we we just, Your Honor, this is his eleventh  
23 probation case, this is number 11 so, Your Honor, we're  
24 respectfully requesting a full revocation.

25 THE COURT: Alright, thank you, ma'am. Yes, sir.

1           MR. BROWN: May it please the Court, Your Honor. The  
2 majority of the cases you see, uh, coming before this court  
3 don't have a lotta age on 'em. At the time which we began,  
4 uh, the Court is well aware addressing issues of bond  
5 modifications, bond revocations and additional hearings as  
6 relate to Mr. Wingo, he immediately said that he would wanna  
7 go forth and face the charges that's before this court.  
8 Nineteen years old without a high school diploma, comin' from  
9 a a very good family and I know there other family members or  
10 related family members here that also are a part of law  
11 enforcement, Mr. Wingo may wanna, uh, touch upon that, he  
12 found himself usin' drugs and unfortunately it just a spiral  
13 effect.

14           I've known Mark's family I guess most a my life, uh, most  
15 people in Spartanburg know the Wingo family, uh, what they've  
16 meant to Roebuck, uh, and just their, the whole background of  
17 of being great community folk, unfortunately Mark has had the  
18 same problem that another brother of his had, that brother's  
19 no longer with us, he's passed away, uh, due to an overdose.  
20 Uh, Mark found himself over time period, Your Honor, as you  
21 hear the entirety of his record doin' crazy things as relates  
22 to his drug usage, he could just never get a hold on it and,  
23 you know, he would wanna request of the Court that he will try  
24 to get that help. Uh, the odd thing is I I began to hear from  
25 Mark when he actually was still in prison and he knew that,

1 uh, Cindy Wingo, his ex-wife, and they have had opportunities  
2 to to have conversations about possibly getting back together,  
3 that she was havin' problems, uh, with a ongoing drug problem.  
4 He tells me that 2007 they got together and only for a short  
5 time period in 2010 'cause that's been a part a this court's  
6 consideration as well terms of alleged drug usage between Mark  
7 and Cindy, 2010 for a time period of two months he says they  
8 actually had a time period in which they used together,  
9 outside a that Mark, uh, did his own situations and Cindy, uh,  
10 simply was tryin' to address her habit. Mark said he never  
11 could shake, uh, this habit, I know he lost his father, uh, at  
12 a critical time period of his life and it just added to this  
13 raging beast that he's he's had inside himself.

14 Uh, he's been inside the Department a Corrections, he's  
15 been placed, uh, before the court's cons -- by the Court for  
16 the consideration of ATU, hadn't had a chance to participate  
17 in that, he says it it just doesn't happen when 250 potential  
18 slots throughout the entire system are available and he's  
19 bein' told over 15,000 people, uh, through the court systems  
20 at various times have been court ordered to participate ATU so  
21 it hadn't happened but he did avail himself of any  
22 opportunities while he was in prison for Narcotics Anonymous  
23 and Alcohol Anonymous makin' those meetings as he says, uh,  
24 this last time on Mondays. Mark knew that he had a rage in  
25 him for the desire for drugs, he began contacting me knowing

1 that at some point he was gonna get out, he wanted help his  
2 wife Cindy Wingo, wanted to help himself, so he is the person  
3 that actually began the contact with Faith Homes for both of  
4 'em. Upon bein' released Mark had a chance to speak with  
5 Faith Homes but in the interim, Your Honor, within one month  
6 he found himself with the same people or different  
7 opportunities, uh, and knowing that he was getting multiple  
8 charges. The additional charges he picked up from the first  
9 time he talked to me, uh, terms of his current charges, didn't  
10 even tell me he had 'em. Went in, got right back out in  
11 county and picked up additional charges. Uh, at some point he  
12 did call me and I could hear it his voice something was wrong.  
13 Last time he came, I said, Mark, we're just gonna have to  
14 address this, no need to try to prolong this and he definitely  
15 said, I wanna get some help.

16 Your Honor, he expresses to me and I know he would wanna  
17 express to you that this is the, for him, he would say the  
18 first time that he would had a, the chance to get some outside  
19 help to address his issues. Uh, prior to this last arrest he  
20 did find his way, uh, down in Greenwood, he spoke directly to  
21 the, uh, facility and staff members of of the Faith Home and  
22 they did offer him opportunity to stay there, unfortunately he  
23 came back Mark found himself gettin' high, attempting to do  
24 things to support his habit. His family's been there for him:  
25 his mother, sister, his other brother but at some point enough

1 was enough so to seek continued resource to support his habit,  
2 they didn't to rec, uh, receive counsel, uh, they did.

3 Your Honor, you you hear what's before the Court's  
4 consideration, I can tell you, uh, that the sad and dismal  
5 part about this whole thing is the Department a Correction is  
6 a penalize institution, it's not a correctional institution as  
7 you see hadn't helped Mark at all. Give him a bunch a time,  
8 give him the maximum amount a time he faces will only just put  
9 him away, uh, to set aside this individual that at some point  
10 will find himself back into this community and doin' the same  
11 things. He does have a chance to get some drug treatment, we  
12 would ask the Court to consider that in some form or fashion  
13 of the sentence here today. Uh, he knows shoplifting,  
14 attempting to purchase these items support his habit, uh,  
15 cause him additional problems and he knows he just really  
16 wants to get this behind him. Uh, he's expressed to me he  
17 would like to to talk to the Court, uh, in particular as  
18 relates to what's been said about the fact that he was  
19 attempting to pass some form of drugs, uh, in this courtroom  
20 and in particular everything as relates to why he again finds  
21 himself standing before yet another judge.

22 THE COURT: You, do you agree with the statements that  
23 were just made by your lawyer?

24 THE DEFENDANT: Yes, sir. Yes, sir.

25 THE COURT: And, Mr. Wingo, is there anything else that

1 you would like to say or want me to know?

2 THE DEFENDANT: Uh, yes, sir, there was, there is. Uh,  
3 there's no excuses for my actions, I won't try to make it.  
4 Uh, what I've learned over a period a times, uh, I'm grateful  
5 for a lot of it and questionable 'bout a lot of it as well  
6 that I'm undoubtedly the stupidest criminal there is because I  
7 get away with absolutely nothin'. Uh, I go into Home Depot, I  
8 don't have quite enough money to at the time redo --  
9 remodelin' my three stepdaughters' room. I'm drinkin' and  
10 druggin'. takin' pills and drinkin' stuff and I decide to  
11 steal some items to try to help and I get caught. First time  
12 in my life ever bought Sudafed, I didn't even know it was a  
13 felony 'cause some girl was havin' me buy it for and she  
14 payin' me or actually she started payin' me in cash right  
15 outta prison and I bought it these few times and that's the  
16 only time I ever bought it, I got arrested just, you know, I  
17 guess God's sparin' me 'cause I can't take the torment really.  
18 Drugs have become a torment to me, they torment me, they don't  
19 do for me like they used to when I first started and I used to  
20 have fun and I used to enjoy it, now they just torment me and  
21 those Suboxone that they would talk about that is a opiate  
22 blocker, it's not, it's not okay and I'm wrong for doin' it  
23 but when I seen, you know, this this, it does help a little  
24 bit, keeps you from cravin' and withdrawin' and stuff, it  
25 don't get you high, it keeps you from gettin' high, if you try

1 to get high you get sick, so that's what that was, Your Honor,  
2 and I couldn't stand to see my ax -- ex-wife but we've been  
3 talkin' tryin' to get her life back together and and and I had  
4 been tryin' to help her, even though she's with another man  
5 when she caught all these other charges, her mother is here,  
6 that's who I live with, I live with my mother-in-law and these  
7 three stepchildren that know me by daddy, not by Mark or  
8 nothin' else, I'm the only daddy they've ever known and I love  
9 'em like their my very own and that it's 'cause a that, I  
10 believe it's come between me and my whole family which I'm not  
11 gonna put 'em on the spot, that's my brother-in-law right  
12 there (indicating) Captain Hollifield and I, and I love him  
13 and respect him a lot, I've hurt him. I I had the type of  
14 family and mother. My father wasn't like that. My father  
15 walk through hell with you and I lost him 2005 and lost my  
16 brother to an addiction well 2006, but the rest of my family  
17 ain't like that, they're either you gonna live this way which  
18 is the right way period, no questions asked, and I respect  
19 that, or you gonna live over there somewhere stay away from  
20 us, and I found myself over there, uh, tryin' to be a father  
21 to three kids and tryin' to figure out how to control my own  
22 desires and crazy talks that I would have and just failed  
23 miserably, that's why I consented to all this stuff, didn't  
24 wanna fight it, didn't wanna waste the solicitor's time, your  
25 time, especially this (indicating) guy who's been a friend to

1 me, more than a lawyer, has been a friend to me, known him a  
2 long time, he's been a friend to me, appreciate that even in  
3 my very very needy time, uh, I needed a friend. Uh, I'm just  
4 not some wicked dude that the solicitor's office and this  
5 court may think I am. I was raised by a great family, a great  
6 father, a great mother and I had great support all the way  
7 around me so I don't have an excuse to be here, I don't. Uh,  
8 my choices I've learned is why I'm here. I've learned all  
9 this other stuff and and and I -- Captain Hollifield, Randy,  
10 is why who who we talk to, how great a talents, I got this and  
11 I got that, and, you know, Your Honor, I do have some great  
12 talents but I I I almost gave up on at times but I really  
13 wanna utilize 'em but I can't never get past this. There's  
14 one thing in my life that haven't been able to get out, keep  
15 out, that's the drug addiction, that's when that little voice  
16 goes speaking to me and that cravin' goes off in me and I  
17 don't know what to do, I ain't figured that part out.  
18 Everything else has come together for me and that's when I I  
19 knew they had the answers at Faith Home 'cause I had a brief  
20 time there. Before I was sentenced on these last charges I  
21 was there, I made it there, me and my wife both. We planned  
22 to move down there, start a life over, we get in recovery  
23 program and and and help men and women like me and her that  
24 struggle with drug addictions and start my business down there  
25 but that wasn't, that wasn't able to happen 'cause I was

1 sentenced, mandated back to court and chuck made to leave the  
2 program to come to court and then that a Judge Couch give me  
3 the the 10 years suspended to 6 years and 4 years probation, I  
4 like Your Honor but I did 4 years and 9 months on those  
5 charges because my, way my sentence was and the way probation  
6 had sent the paperwork some 15, 18 months later for me to sign  
7 and outside a counsel I did sign those papers because it said  
8 6-year concurrent but what they didn't tell me is none a that  
9 time I done did were calculated so I started a 6-year  
10 sentence, uh, uh, prison is nothin' but gang members. I  
11 myself was attacked, stabbed three times in the back, once  
12 over the ear, in the chest right there (indicating). I've  
13 permanent damage from that, uh, take different medicines like  
14 I have not received at the jail yet 'cause hadn't been  
15 approved. Feet completely numb, my hands stay numb. Only  
16 thing in prison that I benefit I did get my GED 'cause the  
17 judge ordered it, I got it, 42-years-old I went and got it. I  
18 also got a Carpentry One and Two, uh, 'cause they did have  
19 carpentry there and I was already well-skilled construction  
20 but they they groomed some things, I had a great Christian  
21 structure, I did the victim impact and I did AA one night a  
22 week which was on Monday's 'cause that's all they had. The  
23 ATU thing was ordered again, this was been like the second,  
24 third, fourth time they ordered ATU for me, that just never  
25 happens, always the same answer is they, Oh, they's 12, 15,000

1 people waitin' to go there, there's 250 beds and honestly,  
2 Your Honor, I've never met one individual out a all this time  
3 that said, Man, ATU's a great program and I've met counsel  
4 people tell me how great program Faith Home is and I've been  
5 there to know that they're a great program, that's why I've  
6 been tryin' to get my wife through him and myself once I got  
7 out and relapsed again. I've been on the list myself since  
8 December as well as my wife because I initiated it. When I  
9 got out on bond, right after I did give her that Soboxone  
10 strip after court was over and we was leavin' and I did give  
11 her a note, I wish they had the note, they never give you the  
12 good, they never give you positive stuff, that the note that I  
13 wrote her told her how much I loved her still and that I  
14 believe in who she was because the person I met is the reason  
15 I contacted him, the reason I continue to wanna try to love  
16 her and believe in who she is because she's a great person  
17 outside a drugs too and, you know, if you did nothin' else  
18 you've blessed me because you gave her a chance to go. She's  
19 sittin' in jail waitin' to go and she'll go any day I know but  
20 I thank you so and I thank you for givin' her a chance. Now  
21 obviously I'd love to have the same chance. I'd love to come  
22 back here in a year or two and tell ya how great we're doin'  
23 but also realize there's, uh, consequences that our action, I  
24 do know that, I I know there's consequences to our action but  
25 he just told me that a while ago but already knew it. My

1 mother-in-law is here, she told ya she's here to support me  
2 because she knows the real me and it's just her car that I  
3 tore up.

4 I don't have anything further, Your Honor, other than I  
5 plead for your help to allow me a chance, I don't care how  
6 many hoops I have to jump through get there but I need that  
7 support group that Faith Home offers. I have a great family  
8 support s -- group, a great one, better than anybody could ask  
9 for. My sister, my Lord, goes into the county jail, preaches  
10 to the women, she's hard core but I love her, she's just like  
11 my mother and they're there once I can receive that help. I  
12 love 'em and I know they love me unconditionally, I wouldn't  
13 even dream of askin' my mother to come sit in another  
14 courtroom, she's 72 and that's why she ain't here, it's not  
15 because she don't love or support me, it's because I wouldn't  
16 ask her, she probly don't even know, I wouldn't put her  
17 through that, they've been through enough.

18 THE COURT: Thank you, sir.

19 (Pause.)

20 THE COURT: Alright, I'll find that there's a substantial  
21 factual basis for the plea, I'll find he's in willful  
22 violation terms and condition of his probation by having  
23 entered the plea, we can do a full revocation and give him  
24 credit for 64 days, let time that he's gonna serve satisfy any  
25 monetary obligations that it can and then anything that's left

1 over we can, uh, reduce to a civil judgment, uh, that will run  
2 concurrent with the, uh, 10-year sentences on the three, uh,  
3 po, uh, illegal possession of contraband by prisoner charge  
4 which he'll also -- also receive credit for 64 days. I've  
5 indicated on each one of those charges my instruction the  
6 Department a Correction that he receive the Addiction  
7 Treatment Unit, uh, that'll run concurrent with the 30-month  
8 sentences on the, uh, attempt or to purchase pseudoephedrine  
9 charges, they'll run concurrent with the other charges, as  
10 well as my instructions to the Department a Correction that he  
11 receive the Addiction Treatment Unit, they'll also run  
12 concurrent with the 1-year sentence on the, uh, uh, use of  
13 vehicle without owner's permission charge which he will  
14 receive credit for 64 days, restitution having been ordered as  
15 well as my instructions to Department a Correction that he  
16 receive the ATU. On the shoplifting third and subsequent  
17 property offense charge, that will be a, uh, 10-year sentence  
18 which is suspended to the time that he served and the service  
19 of 5 years of supervision, that particular sentence will run  
20 consecutive to the other charges, he'll receive credit for the  
21 64 days. I've indicated on the sentencing sheet you can't  
22 have any contact with the victim which is the store, gonna  
23 need to comply with the Department a Probation's instructions  
24 as far as what type of drug treatment you need. If they feel  
25 that Faith Homes is appropriate, you can do that but you'll

1 have to follow their instructions. You'll need to stay clean  
2 of illegal substances because they will be doin' random drug  
3 testing on you. I've indicated on the sentencing sheet we'll  
4 find out the work of the Department a Corrections has been any  
5 benefit to you because for the first 6 months you will be  
6 under intensive supervision by them to see if you have, see if  
7 we need to return you back to the Department of Correction for  
8 an additional sentence of 10 years, uh, but good luck to you,  
9 Mr. Wingo.

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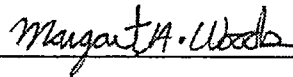
25

1  
2  
3 CERTIFICATE OF REPORTER

4 I, Margaret A. Woods, Court Reporter in and for the State  
5 of South Carolina at Large, hereby certify that I reported the  
6 preceding case on March 27, 2015 at the time and place  
7 heretofore set forth; and that the foregoing pages numbered  
8 from 2 through 25, inclusive, constitute a true and accurate  
9 transcription of my stenographic notes of the said proceeding.

10 I further certify that I am neither attorney nor counsel  
11 for, nor related to or employed by any of the parties  
12 connected to the action, nor am I financially interested in  
13 the action.

14 April 15, 2016

15 

16 Margaret A. Woods, Court Reporter

17 in and for the State of South Carolina at Large.  
18  
19  
20  
21  
22  
23  
24  
25

FORM 5

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF )  
 )  
 Full name and prison number (if any) of Applicant. )  
 )  
 Mark Stephen v. )  
 Wingo 269107 )  
 State of South Carolina )  
 )

IN THE COURT OF COMMON PLEAS

**2016-CP-42-0607**

APPLICATION FOR

POST-CONVICTION RELIEF

CLERK OF COURT  
 SPARTANBURG COUNTY  
 2016 FEB 18 AM 11:28  
 M. HOPE BLACKLEY

VOID  
 ENCLOSURE  
 M. HOPE BLACKLEY  
 SPARTANBURG COUNTY

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (less than 100 words, 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 answers to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

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

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

1. Place of detention Evans
2. Name and location of Court which imposed sentence Spartanbury Co
3. Name(s) of co-defendant(s) (if any) A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) \_\_\_\_\_
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) March 27, 2015 10 yrs
  - (b) \_\_\_\_\_

#1 2013 A 4210100817  
 #2 15A 42101005187  
 #3 2014 A 4210204090

- (c) \_\_\_\_\_
- 6. Check whether a finding of guilty was made:
  - (a) after a plea of guilty
  - (b) after a plea of not guilty \_\_\_\_\_
  - (c) after a plea of nolo contendere \_\_\_\_\_
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?  
A motion to reconsider was filed by appellant

- 8. If you answered "yes" to (7), list:
  - (a) the name of each Court to which you appealed:
    - i. Motion to reconsider
    - ii. \* Unable to contact lawyer for appeal (Spartanburg
    - iii. County refused me calls, or writing material)
  - (b) the result in each such Court to which you appealed:
    - i. (open) still for motion to reconsider
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (c) the date of each such result:
    - i. pending
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (d) if known, citations of any written opinion or orders entered pursuant to such results:
    - i. unknown
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_

CLEARING HOUSE  
 SPARTANBURG COUNTY  
 2016 FEB 18 AM 11:28  
 M. HOPE BLACKLEY

VOID CLOCKED IN ERRATA: 07  
 M. HOPE BLACKLEY  
 SPARTANBURG COUNTY  
 Defendant

- 9. If you answered "no" to (7), state your reasons for not so appealing:
  - (a) \_\_\_\_\_ As stated in #7
  - (b) \_\_\_\_\_ (While being held in Spartanburg Co Jail
  - (c) \_\_\_\_\_ was denied his right to contact his lawyer)
- 10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

\* Spartanburg Co detention center refused defendant  
his medication the 17 days she was locked-up  
there leading up to the plea on Mar 27, 2015 (which included  
several "Mental Health" medications) defendant had been talking for  
4 years prior to being locked-up at Spartanburg Co. Defendant told lawyer's →

Continue → and Judge during plea. \*

404 U.S. 257 [1971]

- (a) \_\_\_ Santobello v New York (see attachment facts)
- (b) \_\_\_ Boylorn v Alabama (see attachment facts)
- (c) \_\_\_ Thompson v state 340 S.C. 112, 531 S.E. 2D 299 [2000]

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

- (a) \_\_\_ see attachment facts
- (b) \_\_\_
- (c) \_\_\_

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

- (a) any petition in a State Court under South Carolina Law? \_\_\_\_\_
- (b) any petition in State or Federal Courts for habeas corpus or post-conviction relief? \_\_\_\_\_
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? \_\_\_\_\_
- (d) any other petitions, motions or applications in this or any other Court? \_\_\_\_\_

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

- (a) the specific nature thereof:
  - i. \_\_\_
  - ii. \_\_\_
  - iii. \_\_\_
  - iv. \_\_\_
- (b) the name and location of the Court in which each was filed:
  - i. Spartanburg County (motion to recense)
  - ii. \_\_\_
  - iii. \_\_\_
  - iv. \_\_\_
- (c) the disposition thereof:
  - i. pending
  - ii. \_\_\_
  - iii. \_\_\_

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 SPARTANBURG COUNTY  
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 CLERK OF COURT  
 SPARTANBURG COUNTY

*Mark Wingard*  
2/29/07

- iv. \_\_\_\_\_
- (d) the date of each such disposition:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

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

15. If you answered "yes" to (14) identify:  
(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

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 SPARTANBURG COUNTY  
 2016 FEB 18 AM 11:28  
 M. HOPE BLACKLEY

CLERK OF COURT  
 SPARTANBURG COUNTY  
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 M. HOPE BLACKLEY

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

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

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

- i. Michael Brown (Spartanburg SC)
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. open plea hearing, No recommendation was
- ii. the agreement, however after guilty plea
- iii. state allowed Spartanburg Co officer Sgt. to request max-sentencing?

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

4 years

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

No

M. HOPE BLACKLEY  
 2016 FEB 18 AM 11:28  
 CLERK OF COURT  
 SPARTANBURG COUNTY

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 M. HOPE BLACKLEY  
 2016 JAN 23 11:49 AM  
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 SPARTANBURG COUNTY

STATE OF SOUTH CAROLINA )

County of )

VERIFICATION )

I, \_\_\_\_\_, 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.

Mark S Winge

SWORN to and subscribed before me this 20  
day of January, 2016

S. Oulston (I.S.)  
Notary Public

My Commission Expires: 2/24

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SPARTANBURG COUNTY  
2016 FEB 18 AM 11:28  
M. HOPE BLACKLEY

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SPARTANBURG COUNTY  
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2016 JAN 25 PM 4:07  
M. HOPE BLACKLEY

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

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

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

  
 \_\_\_\_\_  
 Applicant

SWORN or affirmed to and subscribed before me this  
20 day of January, 2016

  
 \_\_\_\_\_  
 Notary Public

My Commission Expires: 2/24

CLERK OF COURT  
 SPARTANBURG COUNTY  
 M. HOPE BLACKLETT  
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light of all the circumstances, all Trial Courts are now required to interrogate the defendants who enter Guilty Pleas so that the waiver of these fundamental rights will affirmatively appear in the Record. McCarthy v. United States, 394 U.S. 459, Boykin v. Alabama, 395 U.S. 238. The Lower Courts, however, have uniformly held that a prisoner is entitled to some form of relief when he shows that the Prosecutor reneged on his sentencing agreement made in connection with a Plea Bargain, most jurisdictions preferring vacation of the Plea on the grounds of "involuntariness" while a few permit only specific enforcement. "NOTE" Guilty Plea Bargaining: compromises by Prosecutors to secure Guilty Pleas, 112 U.P.A.L. Rev. 865, 876(1964). The author has stated the basis for outright vacation is an outraged sense of fairness when a Prosecutor breaches his promise in connection with sentencing. D. Newman, conviction without Trial. 36 (1996). United States v. Kauffman, 109 F.3d. 186, 193rd Cir.1997). In the context of a claim that counsel failed to conduct an adequate investigation prior to entry of a Guilty Plea, prejudice is demonstrated by showing that the defendant would have insisted on going to Trial instead of pleading guilty.

**FAILURE TO MOVE TO WITHDRAW GUILTY PLEA,**

**UNKEPT PLEA BARGAINS**

Counsel may be ineffective for failure to move for withdrawal of a Guilty Plea where the government fails to fulfill it's promise's under the Guilty Plea. Thompson v. State, 340 S.C. 112, 531 S.E.2d. 294(2000), Jordan v. State, 297 S.C. 52, 374 S.E.2d. 683(1988). In Thompson, the defendant was told that the

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Solicitor would not make a recommendation during sentencing if Thompson plea guilty to the charge of manslaughter. However, the Solicitor requested the maximum thirty year sentence. Thompson's guilty plea was set aside, since evidence demonstrated he would not have plead guilty had he knew the Solicitor would make the recommendation. Similarly in Jordan, the Solicitor would not recommend nor oppose a Probationary Sentence. However, at the Plea, the Solicitor opposed Probation. In order to sustain a claim, the Applicant must show the existence of the agreement and detrimental reliance by the Applicant on the agreement. Reed v. Becka, 333 S.C. 676, 511 S.E.2d. 396(1999).

The Court in Reed found that contract principles apply to Guilty Pleas. Reed found that a Plea Agreement is nothing more than an offer until a defendant accepts the offer by entering a Court-Approved Guilty Plea and pleading guilty.

1s/ Mark S. Wingo 269107  
 Mark S. Wingo, SCDC#269107

CLERK OF COURT  
 SPARTANBURG COUNTY  
 2016 FEB 18 AM 11:20  
 M. HOPE BLACKLEY

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 SPARTANBURG COUNTY  
 2016 JAN 25 PM 4:07  
 M. HOPE BLACKLEY

Clerk of Court

Feb 8, 2015

Please, stamp, date all documents  
and return completely copies to me and  
Attorney Michael Brown of Spartanburg

Respectfull  
Mark Wyz

FILED  
SPARTANBURG COUNTY  
2015 FEB 18 AM 11:28  
M. HOPE BLACKLEY

SPARTANBURG COUNTY  
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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Mark Stephen Wingo, #269107,	)	Case No.: 2016-CP-42-0607
	)	
Applicant,	)	
	)	<b>RETURN</b>
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed on February 18, 2016, would respectfully show this Court:

I.

Mark Stephen Wingo ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Spartanburg County. Applicant was indicted at the March 2015 term of the Spartanburg County Grand Jury for shoplifting (2015-GS-42-0826); two counts of possession of contraband by a prisoner (2015-GS-42-1466, and -1467); use of a vehicle without permission (2015-GS-42-1461); possession of cocaine first offense (2015-GS-42-0659); and three counts of attempt to purchase over the legal limit of pseudoephedrine in a thirty day period (2015-GS-42-0658, -0660, and -0661). Applicant also waived presentment on an additional charge of possession of contraband by a prisoner (2015-GS-42-1460).<sup>1</sup> Michael Demorris Brown, Esquire, represented Applicant. On March 27, 2015, Applicant pleaded guilty before the Honorable J. Mark Hayes, II. Judge Hayes sentenced Applicant to imprisonment for concurrent terms of 10 years for each count of possession of

<sup>1</sup> Applicant was sentenced to a total of concurrent terms of 30 months for those offenses. Respondent notes that Applicant only challenges his convictions for shoplifting, (2015-GS-42-0826), and two counts of possession of contraband by a prisoner (2015-GS-42-1460 and -1466).

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 SEVENTH JUDICIAL CIRCUIT  
 SPARTANBURG, SOUTH CAROLINA

contraband by a prisoner, and to a *consecutive* term of 10 years for shoplifting, suspended on the service of five years' probation to time served. Judge Hayes also revoked Applicant's probation in full and ordered that the revocation be served concurrently.<sup>2</sup> Applicant did not appeal his conviction or sentence.

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

## II.

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

1. "Prosecutor Violated Plea Agreement" (sic)
  - a. "Prosecutor's Team/Victim, County jail requested maximum sentence. This was not part of Plea Bargained. So said Plea is not knowingly or willingly entered...in the context of a claim that counsel failed to conduct an adequate investigation prior to the entry of a Guilty Plea, prejudice is demonstrated by showing that the defendant would have insisted on going to Trial instead of pleading guilty."
2. "Failure to Move to Withdraw Guilty Plea, Unkept Plea Bargains"
  - a. "Counsel may be ineffective for failure to move for withdrawal of a Guilty Plea where the government fails to fulfill it's promise's under the Guilty Plea..."

## III.

Respondent construes Applicant's first and second allegations as claims of ineffective assistance of counsel and submits these allegations are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334

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<sup>2</sup> Applicant subsequently filed a pro se document titled "Motion to Reconsider." The Spartanburg County Clerk of Court forwarded this document to counsel of record on May 6, 2015. Upon information and belief, no further action was taken in the court of general sessions in respect to this document.

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 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). 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 prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. 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.

Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, 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 also alleges his guilty plea was involuntary. This allegation is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pleaded guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). A criminal

defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000). When determining issues relating to guilty pleas, the Court will consider the entire record, including the transcript of the guilty plea and the evidence presented at the PCR hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248.

#### V.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent will move to strike any amendments withheld until the last minute where such amendments result in prejudice to Respondent. See Rules 15(a)-(b), SCRPC.

## VI.

Each and every allegation not expressly admitted, qualified, or explained in this Return is hereby denied.

## VII.

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

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

JOHANNA VALENZUELA  
Senior Assistant Deputy Attorney General

ALICIA A. OLIVE  
Assistant Attorney General

By: Jessica E. King  
ATTORNEYS FOR RESPONDENT

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

October 13, 2016

RECEIVED  
OCT 17 PM 12:22

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	2016-CP-42-00607
COUNTY OF SPARTANBURG	)	
	)	
	)	
	)	
	)	
MARK S. WINGO,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
THE STATE OF SOUTH CAROLINA,	)	
DEFENDANT.	)	
_____	)	

February 1, 2017  
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE

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

SUSANNAH C. ROSS, ESQ.  
Attorney for the Plaintiff

CAITLIN B. HASTINGS, ESQ.  
Attorney for the Defendant

CHERYL A. SMITH  
Circuit Court Reporter

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EXHIBITS

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

P R O C E E D I N G S

(WHEREUPON, the proceedings convened at 12:23 p.m.)

MS. HASTINGS: May it please the Court. Your Honor, this is the case of Mark Stephon Wingo versus the State of South Carolina, Case Number 2016-CP-42-0607.

This application was filed on February 18, 2016. He is presently confined in the South Carolina Department of Corrections, and he was indicted at the March 2015 term of the Spartanburg County grand jury for shoplifting third enhanced and two counts of possession of contraband by a prisoner. At the time of his plea hearing he was currently on probation, and Judge Hayes found the applicant in violation of his probation and revoked it in full.

The applicant was represented by Michael Brown, and on March 27, 2015, the applicant pled guilty before Judge Hayes, and Judge Hayes sentenced him to concurrent terms of ten years for the two counts of possession of contraband by a prisoner and to a consecutive term of ten years for shoplifting suspended on time served upon service of five years probation.

The applicant did not appeal his conviction or sentence. And I will turn it over to PCR counsel at this time.

THE COURT: Okay.

MS. ROSS: Okay. I represent Mr. Wingo. We have

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exchanged a few letters; however, I haven't spoken to him before now. He is at Evans Correctional.

On January 5th I had set up and faxed to schedule a teleconference. When I called, I was told by Operations that the inmates would have to call me, that they had phone access. I then said that I would like them to give the message to the applicant to call me. I had not heard from Mr. Wingo, but he wrote me and said that he had attempted to make some three-way calls. I just did not get those.

However, I believe the issues are fairly clear, and I believe I could call him to the stand and outline them for you. So I call Mark Wingo.

THE COURT: All right. Come on around. Place your left hand on the Bible, raise your right hand as best you can.

WHEREUPON,

MARK STEPHON WINGO

After having been duly sworn, testified as follows:

THE COURT: Have a seat. State your name for the record.

THE WITNESS: Mark Stephon Wingo.

DIRECT EXAMINATION

BY MS. ROSS:

Q All right. Mr. Wingo, you're alleging ineffective assistance of counsel, correct?

1 A Yes.

2 Q All right. And what are your complaints about your  
3 lawyer for your plea?

4 A Is the -- after -- when we entered the -- when we went  
5 into the plea, it was -- my understanding, there was going  
6 to be no recommendation and that's why I agreed to plea and  
7 waive grand jury and the thing for the grand jury, all that,  
8 just to plead to get things behind us. But after I plead,  
9 later, you know, they -- they asked the judge to give me the  
10 maximum sentence, and that's not what we agreed on.

11 Q Okay. And who specifically asked the judge for the  
12 maximum sentence?

13 A The prosecution called Sheriff's Department sergeant.

14 Q Okay. And it's your position that the Sheriff's  
15 Department is an arm of the State, so he was a state actor  
16 when he asked for the maximum sentence in your plea?

17 A Yes, ma'am.

18 Q And your understanding -- and there was no objection or  
19 comment made by Mr. Brown when the officer made these  
20 statements during your plea?

21 A No, ma'am. I think it just caught us by surprise.

22 Q Now let's talk about you also alleged that there were  
23 mental health issues. Did the judge ever specifically ask  
24 you whether you had any mental health issues?

25 A No. He didn't -- he didn't -- he didn't ask me. I

1 told him that I wasn't receiving any of my medication, and  
2 he just kind of didn't say anything. And I had been in the  
3 jail for 17 days and constantly asked through the kiosk, so  
4 it should be on record. And I told them about my medicine  
5 and asked them -- continued to try to get them to give it to  
6 me, and they never did.

7 Q All right. Are there any other areas where you feel  
8 like your lawyer was ineffective or you were denied a fair  
9 trial?

10 A No.

11 MS. ROSS: Okay. I've got no further questions then.

12 THE COURT: Cross?

13 MS. HASTINGS: Yes, Your Honor.

14 CROSS EXAMINATION

15 BY MS. HASTINGS:

16 Q Hi, Mr. Wingo. Thanks for being here today.

17 First of all, you say that there is a plea agreement in  
18 this case?

19 A Well, it was basically my understanding that the State  
20 would not ask the judge for anything specific. 0 to 10 was  
21 the plea agreement. No recommendation. And ---

22 Q Okay. So the State was not making a recommendation in  
23 this case ---

24 A That's correct.

25 Q --- or any -- and there was no negotiated sentence that

1 you were pleading to?

2 A That's correct.

3 Q Okay. Secondly, do you have a copy of the transcript  
4 with you?

5 A I do.

6 Q Can you please turn to page 4.

7 A (Witness complies) Okay.

8 Q If you can, please read to the Court starting at  
9 page -- I mean line 20, please.

10 A It says [as read], "Within the last 24 hours, have you  
11 consumed any type of substance that would advertly [sic]  
12 affecting your ability to understand what we're doing  
13 today?"

14 Q And what did you reply?

15 A "No, sir."

16 Q Okay. And then the judge further asked, "Have you ever  
17 been treated for any type of substance abuse issues for drug  
18 or alcohol problems?"

19 And then you said at the top of page 5, "Nothing long  
20 term, Your Honor. Just AA, NA, a little stint here and  
21 there, you know." Is that correct?

22 A Yes.

23 Q You believe that's the correct interpretation?

24 A Yes.

25 MS. HASTINGS: Okay. No further questions, Your Honor.

1 THE COURT: Okay.

2 MS. ROSS: Nothing further.

3 THE COURT: All right. You can step down. Thank you.

4 All right. Anything else?

5 MS. ROSS: No, Your Honor.

6 THE COURT: Okay. Anything from the State?

7 MS. HASTINGS: No, Your Honor.

8 RULING BY THE COURT

9 THE COURT: All right. Well, Mr. Wingo, I think it's  
10 your burden, of course, to show that your counsel was  
11 ineffective, and there's nothing I can see from the evidence  
12 before me that would indicate that he was ineffective, and  
13 so respectfully I'm going to deny your application. I wish  
14 you the best of luck.

15 MS. ROSS: Thank you, Your Honor.

16 THE COURT: Okay.

17 MS. HASTINGS: Thank you, Your Honor.

18 (WHEREUPON, the proceedings concluded at 12:32 p.m.)

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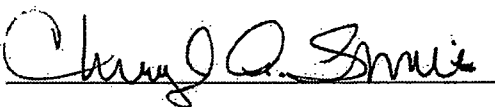
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA       )  
COUNTY OF GREENVILLE       )

I, CHERYL A. SMITH, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Spartanburg County, South Carolina, on the 1st day of February, 2017.

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

May 8, 2017

  
Cheryl A. Smith, CVR-M  
Court Reporter

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

IN THE COURT OF COMMON PLEAS  
OF THE SEVENTH JUDICIAL CIRCUIT

Mark Stephen Wingo,  
S.C.D.C. No. 269107,

2016-CP-42-0607

Applicant,

**ORDER OF DISMISSAL**

v.

State of South Carolina,

Respondent.

MAR 27 PM 1:03  
N. JUDGE CL. J. KELLEY

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed February 18, 2016. Respondent made its return on October 13, 2016. An evidentiary hearing was held on February 1, 2017, at the Spartanburg County Courthouse. Applicant was present and represented by Susannah C. Ross, Esquire. Assistant Attorney General Caitlin B. Hastings represented Respondent.

Applicant and his plea counsel Michael D. Brown, Esquire were present at the hearing. The Court had before it Applicant's plea transcript, the Spartanburg County Clerk of Court records, the South Carolina Department of Corrections records, and the records of this action.

**PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Spartanburg County. Applicant was indicted at the March 2015 term of the Spartanburg County Grand Jury for shoplifting (2015-GS-42-0826) and two counts of possession of contraband by a prisoner (2015-GS-42-1460, and -1466). Applicant waived presentment on one of the charges of possession of contraband by a prisoner (2015-GS-42-1460). Michael D. Brown, Esquire, represented Applicant. On March 27, 2015,

Applicant pleaded guilty before the Honorable J. Mark Hayes, II. At the time of the plea hearing, Applicant was also on probation for prior charges. Judge Hayes sentenced Applicant to imprisonment for concurrent terms of 10 years for each count of possession of contraband by a prisoner charge and to a *consecutive* term of 10 years for shoplifting, the balance suspended to five years' probation upon time served. Judge Hayes also revoked Applicant's probation in full and ordered that the revocation be served concurrently. Applicant did not appeal his conviction or sentence.

### ALLEGATIONS

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

1. "Prosecutor Violated Plea Agreement" (sic)
  - a. "Prosecutor's Team/Victim, County jail requested maximum sentence. This was not part of Plea Bargained. So said Plea is not knowingly or willingly entered...in the context of a claim that counsel failed to conduct an adequate investigation prior to the entry of a Guilty Plea, prejudice is demonstrated by showing that the defendant would have insisted on going to Trial instead of pleading guilty."
2. "Failure to Move to Withdraw Guilty Plea, Unkept Plea Bargains"
  - a. "Counsel may be ineffective for failure to move for withdrawal of a Guilty Plea where the government fails to fulfill it's promise's under the Guilty Plea..."

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing and to closely pass upon their credibility. This Court has weighed the testimony accordingly. As a matter of general impression, this Court finds Applicant's testimony to be neither credible nor legally relevant. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code

Ann. § 17-27-80 (2003).

**Ineffective Assistance of Plea Counsel**

At the PCR hearing, Applicant proceeded on the allegations that his plea counsel was ineffective for failing to ensure the court sentenced him pursuant to an alleged plea agreement. Applicant has failed to satisfy his burden of proving he received ineffective assistance of counsel.

In this post-conviction relief action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove 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." Id. at 442, 334 S.E.2d at 814 (citing Strickland v. Washington, 466 U.S. 668 (1984)).

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

The Court uses a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was deficient. Id. Under this prong, the Court measures counsel'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. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” Strickland, 466 U.S. at 688. An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel’s errors, the Applicant would not have pleaded guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); Hill v. Lockhart, 474 U.S. 52, 56 (1985). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

***Failure to Ensure “Plea Agreement” was Upheld***

Applicant asserts that plea counsel’s performance was deficient for failure to ensure that alleged plea agreement was upheld. Applicant has failed to show any deficiency or resulting prejudice from this allegation.

At Applicant’s guilty plea hearing, the Solicitor told the judge that the State was making no recommendation on any of the aforementioned charges. Tr. p. 2. Additionally, Applicant did not enter a plea to a negotiated sentence. The plea judge also informed him that he could be sentenced up to 10 years on each charge. Tr. p. 9 -10. Applicant stated that he was very satisfied with the services of his counsel and that his decision to plead guilty was being made freely and voluntarily.

At the PCR hearing, Applicant testified that he agreed to plead guilty with the impression

that he would not receive the maximum sentences on his charges. However, Applicant testified that he did not plead guilty to a recommended sentence nor a negotiated sentence. Applicant further testified that he remembered Judge Hayes reviewing the potential sentences he could receive at his plea hearing Tr. p. 9-10. At his plea hearing, Judge Hayes also advised Applicant that by entering his guilty plea, he would be found in violation of his current probation, and therefore, his probation would be consequently revoked. Tr. p. 11.

From a review of the plea transcript, this Court finds that Applicant did not enter a guilty plea pursuant to a recommended sentence nor a negotiated sentence. This Court further finds that Judge Hayes appropriately and adequately advised Applicant of the potential sentences he was facing by entering his guilty plea as well as the rights he was waiving.

This Court further finds Applicant has failed to establish he was prejudiced by any alleged deficiency of his plea counsel. First, Applicant testified at his plea hearing that he was very satisfied with his counsel's representation. Second, Applicant testified at the PCR hearing that it was his decision to plead guilty and that he did not plead guilty pursuant to a negotiated or recommendation from the State. Therefore, Applicant was vulnerable to the full extent of the law by entering his plea and even admitted so through his testimony at the PCR hearing. Accordingly, Applicant has failed to meet his burden of proving ineffective assistance of plea counsel. Thus, this allegation is denied and dismissed with prejudice.

#### **Prosecutorial Misconduct**

Applicant testified at the PCR hearing that the Solicitor asked the sentencing judge for the maximum sentence which violated his alleged plea agreement. From a review of the plea transcript, this Court finds Applicant has failed to prove any prosecutorial misconduct. Accordingly, this allegation is denied and dismissed with prejudice.

**All Other Allegations**

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

**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. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.


*[Remainder of this page left intentionally blank]*

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 denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 21 day of March, 2017.

  
 EDWARD W. MILLER  
 Presiding Judge  
 Seventh Judicial Circuit

G'ville, South Carolina

2017 MAR 27 PM 1:03  
 M. HOPE BLACKLEY

WITNESSES

City PD 1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

ARREST WARRANT NUMBER

8. TRAFFIC VIOLATION COPY

2014A4210204090

ACTION OF GRAND JURY

*[Signature]*

MAR 12 2015

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. -

**15-GS-42-0826**

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 16 2015

TERM

THE STATE  
vs.

Mark Stephen Wingo

Indictment for  
SHOPLIFTING

SC Code: 16-13-110 (B) (1), 16-01-0057  
CDR Code: 2877  
Class: FEL/E

2015 MAR 18 PM 1:38



WITNESSES

SPTG CO DETENTION CENTER

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND  
ARREST WARRANT NUMBER

8. TRAFFIC VIOLATION COPY

2015A4210100817

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

15-GS-42-1460

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 16 2015

TERM

THE STATE

vs.

MARK STEPHEN WINGO

Indictment for

POSSESSION OF CONTRABAND BY A  
COUNTY PRISONER

SC Code: 24-7-155

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )

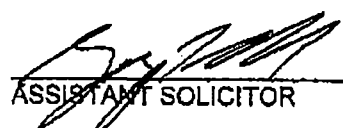
INDICTMENT

At a Court of General Sessions, convened on MAR 12 2015 the  
 Grand Jurors of Spartanburg County present upon their oath:

**POSSESSION OF CONTRABAND BY A COUNTY PRISONER**

That Mark Stephen Wingo did in Spartanburg County on or about March 18, 2015, while a prisoner at the Spartanburg County Detention Center, possess matter declared to be contraband, to wit: a quantity of Methamphetamine, a Schedule II controlled substance, in violation of § 24-7-155, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

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

  
 ASSISTANT SOLICITOR

WITNESSES

1. SENTENCE MADE  
SPTG CO DETENTION CENTER

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND  
FINE CARD MADE

8. TRAFFIC VIOLATION

ARREST WARRANT NUMBER

2015A4210100587

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO  
**15-GS-42-1466**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 16 2015

TERM

THE STATE

vs.

MARK STEPHEN WINGO

Indictment for

POSSESSION OF CONTRABAND  
STATE PRISONER

SC Code: 24-3-950

Class FEL/E

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SPARTANBURG )

INDICTMENT

At a Court of General Sessions, convened on MAR 12 2015, the Grand Jurors of Spartanburg County present upon their oath:

POSSESSION OF CONTRABAND STATE PRISONER

That Mark Stephen Wingo did in Spartanburg County on or about February 27, 2015, a prisoner under the jurisdiction of the State of South Carolina Department of Corrections, unlawfully possess a quantity of contraband, to-wit: A quantity of Suboxone, the said item having been classified as contraband, in violation of §24-3-950, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

  
ASSISTANT SOLICITOR

WITNESSES

SPTBG CO SHERIFF'S OFFICE

1. SENTENCE MADE

2. REQUEST INDEXED

3. CARD RULED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND  
FINE CARD MADE

COPIES OF WARRANT NUMBER 2014A4210104714

8. TRAFFIC VIOLATION COPY

2014A4210104714

ACTION OF GRAND JURY

True Bill

*[Signature]*

MAR 12 2015

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. -

15-GS-42-0658  
The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 16 2015

TERM

THE STATE  
vs.

MARK STEPHEN WINGO

Indictment for

ATTEMPT TO PURCHASE MORE THAN  
NINE (9) GRAMS OF  
PSEUDOEPHEDRINE IN A THIRTY (30)  
DAY PERIOD

SC Code: 44-53-398; 44-53-420

FILED  
2015 MAR 18 PM 1:25  
M:HOPE BLACKLEY

*[Handwritten mark]*



**WITNESSES**

Spartanburg County Sheriff's Office

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

**ARREST WARRANT NUMBER**

8. TRAFFIC VIOLATION COPY

2015A4210200884

**ACTION OF GRAND JURY**

*Foreperson of Grand Jury*

*Date:*

**VERDICT**

*Foreperson of Petit Jury*

*Date:*

DOCKET NO. -

**15-GS-42-1461**

**The State of South Carolina**

**County of Spartanburg**

**Barry Barnette, Solicitor**

**COURT OF GENERAL SESSIONS**

MAR 16 2015

**TERM**

**THE STATE**

**vs.**

**MARK STEPHEN WINGO**

**Indictment for**

**USE OF VEHICLE WITHOUT OWNERS CONSENT**

SC Code: 16-21-60 (B)

CDR Code: 0222

Class MIS/C

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )

INDICTMENT

MAR 12 2015

At a Court of General Sessions, convened on \_\_\_\_\_ the

Grand Jurors of Spartanburg County present upon their oath:

**USE OF VEHICLE WITHOUT OWNERS CONSENT**

That Mark Stephen Wingo did in Spartanburg County on or about March 14, 2015, without consent of the owner, take, use or drive a 2011 Ford Escape belonging to Gloria Still, with intent to deprive the owner of such vehicle temporarily, such deprivation of the owner being unconnected with the commission of or intent to commit a crime other than the taking of such vehicle, he not being entitled to possession of such vehicle, in violation of §16-21-60 (B), *CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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

  
 ASSISTANT SOLICITOR

WITNESSES

SPTBG CO SHERIFF'S OFFICE

ARREST WARRANT NUMBER

2014A4210203231

ACTION OF GRAND JURY

MAR 18 2015

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. -

**15-GS-42-0659**

The State of South Carolina

County of Spartanburg

*Barry J Barnette, Solicitor*

COURT OF GENERAL SESSIONS

MAR 18 2015

TERM

THE STATE

vs.

*5-22-15 - Nolle prossed  
pleaded to other charges*

*Self BEN*

MARK STEPHEN WINGO

Indictment for

POSSESSION OF COCAINE BASE

SC Code: 44-53-375

2015 MAR 26 AM 8:48  
M. HOPE BLACKLEY

2015 MAR 18 PM 1:25  
M. HOPE BLACKLEY

CLERK OF COURT  
SPTBG CO

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

INDICTMENT

MAR 12 2015

At a Court of General Sessions, convened on \_\_\_\_\_ the

Grand Jurors of Spartanburg County present upon their oath:

**POSSESSION OF COCAINE BASE**

That Mark Stephen Wingo, did in Spartanburg County on or about October 3, 2014 possess or attempt to possess a quantity of Cocaine Base, a schedule II controlled substance, in violation of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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

  
ASSISTANT SOLICITOR