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SC SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Berkeley County

Larry B. Hyman, Jr., Circuit Court Judge

JASON LATROY JAMES,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-000011

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
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ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF BERKELEY	)	
State of South Carolina,	)	
	)	
v.	)	Case No. 13-GS-08-0785
	)	
Jason LaTroy James,	)	
	)	
Defendant	)	

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on November 6, 2013, before The Honorable Stephanie McDonald in Courtroom E of the Berkeley County Courthouse, 300 California Avenue, Moncks Corner, South Carolina; attended by counsel as follows:

APPEARANCES:

Adrian Dejeu, Solicitor
 9TH CIRCUIT SOLICITOR'S OFFICE
 300 California Avenue
 Moncks Corner, South Carolina
 Appearing for State of South Carolina

Chad Shelton, Public Defender
 BERKELEY COUNTY PUBLIC DEFENDER
 219 N Highway 52, Suite E
 Moncks Corner, South Carolina 29461
 Appearing for Defendant

David Fashion, Agent
 DEPARTMENT OF PROBATION PARDON & PAROLE

Deborah Garrison
Circuit Court Reporter – 9th Judicial Circuit
 P O Box 901
 Johns Island, South Carolina 29457
dgarrison@sccourts.org

State of South Carolina v. Jason LaTroy James

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Case No. 13-GS-08-0785

Hearing of November 6, 2013

Before The Honorable Stephanie McDonald

1 SOLICITOR: Your Honor, this is Jason
2 James. He is pleading guilty to Indictment
3 2013-0785, assault and battery by mob.

4 THE COURT: Just give me one minute.
5 Mr. Shelton, do you agree with Mr. James'
6 decision to enter this plea today?

7 MR. SHELTON: Absolutely, Your Honor.

8 THE COURT: Does he understand the
9 significant rights in doing so?

10 MR. SHELTON: Yes, ma'am.

11 THE COURT: I see that it is a
12 negotiated plea.

13 SOLICITOR: Yes, ma'am.

14 THE COURT: Mr. James, do you swear to
15 tell the truth, the whole truth and nothing
16 but the truth, so help you God?

17 DEFENDANT:: Yes, ma'am.

18 THE COURT: All right. I need to ask
19 you a few questions to make sure that any
20 plea that you choose to enter today is
21 entered knowingly, intelligently and
22 voluntarily. Okay, sir?

23 DEFENDANT: Yes, Your Honor.

24 THE COURT: How old are you today, sir?

25 DEFENDANT: I'm 21.

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Case No. 13-GS-08-0785

Hearing of November 6, 2013

Before The Honorable Stephanie McDonald

1 THE COURT: I see that you've serve 260
2 days, is that right?

3 DEFENDANT: Yeah.

4 MR. SHELTON: Yes, Your Honor. We
5 definitely agree on that. I am going to make
6 an argument that the court possibly ---

7 THE COURT: I'll be happy to hear form
8 you in just a minute. Sir, were you working
9 anywhere prior to that?

10 DEFENDANT: Yes, Your Honor.

11 THE COURT: Where were you working?

12 DEFENDANT: Checker's.

13 THE COURT: Have you ever been treated
14 for any kind of drug or alcohol problem?

15 DEFENDANT: No, Your Honor.

16 THE COURT: Ever been treated for any
17 kind of mental illness or issue?

18 DEFENDANT: No, Your Honor.

19 THE COURT: Are you under the influence
20 of anything today, medication or anything
21 that could interfere with your ability to
22 understand what we are doing here in court?

23 DEFENDANT: No, ma'am.

24 THE COURT: Thank you, sir. I've got
25 you here on one indictment, 13-0785 which

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Before The Honorable Stephanie McDonald

1 charges you with assault and battery by a
2 mob, being involved with that, against one
3 Dustin Lane. That is assault and battery by
4 a mob, second degree. Sir, -- does that carry
5 up to twenty-five years, generally?

6 MR. SHELTON: Zero -- a minimum of
7 two to twenty-five.

8 THE COURT: Sir, that carries a minimum
9 of two years up to twenty-five years, but Mr.
10 Shelton and Mr. Dejeu have worked out what we
11 call a negotiated plea. That means that if I
12 accept the plea that you will be sentenced to
13 the negotiated term of seven years active
14 time. Do you understand that?

15 DEFENDANT: Yes, Your Honor.

16 THE COURT: Sir, this is classified
17 under our law as a serious offense. Have you
18 had a chance to discuss with Mr. Shelton what
19 that means? We sometimes call it a strike.

20 DEFENDANT: Yes, ma'am.

21 THE COURT: Okay. If you ever facing a
22 third serious offense, the State could seek
23 life without parole in that situation. Do
24 you understand that? It's two for most
25 serious and three for serious. Do you

State of South Carolina v. Jason LaTroy James
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Before The Honorable Stephanie McDonald

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1 understand that?

2 DEFENDANT: Yes, Your Honor.

3 THE COURT: Okay. Understanding all of
4 that, how would you like to plead today?

5 DEFENDANT: I plead guilty.

6 THE COURT: Yes, sir?

7 PROBATION AGENT: (tenders papers to
8 Judge).

9 THE COURT: Okay, I've just been handed
10 some information from Probation. Is Mr.
11 James on probation now?

12 MR. SHELTON: Yes, Your Honor.

13 THE COURT: And does he understand the
14 impact that this will have on his probation?

15 MR. SHELTON: Absolutely.

16 THE COURT: Mr. James, have you been
17 served with the probation citation and the
18 report?

19 DEFENDANT: Yes, Your Honor.

20 THE COURT: Have you had a chance to
21 discuss it with your lawyer?

22 DEFENDANT: Yes, ma'am.

23 THE COURT: You understand why we are
24 here on that today?

25 DEFENDANT: Yes, Your Honor.

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Hearing of November 6, 2013

Before The Honorable Stephanie McDonald

1 THE COURT: Do you agree or disagree
2 that you're in willful violation of the terms
3 and conditions of your probation?

4 DEFENDANT: Yes, Your Honor.

5 THE COURT: Well, let me hear from Mr.
6 Dejeu and then I'm happy to hear from Mr.
7 Fashion.

8 SOLICITOR: Thank you, Your Honor.
9 This incident occurred on or about February
10 19, 2013, here in the Hill Finklea Detention
11 Center. The defendant was incarcerated and
12 along with two other codefendants, Travis
13 Parker and David Smalls, attacked a fellow
14 inmate, Dustin Lane. He was asleep. He was
15 awoken by being choked, hold choking and the
16 three of them were hitting him.

17 Deputy Motion observed the victim covered
18 in his own blood. He called EMS and he was
19 treated at Trident emergency room. He had
20 several lacerations and bruises about his
21 face.

22 Also Dr. Charles Bush noted that because
23 of his injuries that the victim sustained a
24 marked decrease in the visual acuity of his
25 right eye. That goes to the serious bodily

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Hearing of November 6, 2013

Before The Honorable Stephanie McDonald

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1 injury, Your Honor.

2 Also, on or about August the defendant
3 confessed that he along with the other beat
4 up the defendant (sic) -- I mean the victim,
5 Mr. Lane.

6 His prior record, Your Honor, is as
7 listed on the count sheet. I think that he
8 was on YOA for some burglaries, a burglary
9 second.

10 I spoke with Mr. Lane. He is not
11 present, but he is okay with the negotiated
12 sentence.

13 THE COURT: Thank you. Yes, sir?

14 DAVID FASHION, PROBATION AGENT: Yes,
15 ma'am. Mr. James was sentenced by Judge
16 Dennis on December 17th, 2009. He was
17 convicted of burglary. He was given a YOA
18 not to exceed six years, which was suspended
19 on four years probation. This is the only
20 violation that he has at this time. He has
21 had some violations in the past, primarily
22 monetarily.

23 THE COURT: So you are seeking to
24 revoke and terminate?

25 DDAVID FASHION: Terminate.

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Before The Honorable Stephanie McDonald

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1 THE COURT: OKAY.

2 MR. SHELTON: Your Honor, we were
3 actually in front of you last probation term
4 with a probation violation. We have received
5 an offer at that time, so we working on all
6 of these together, hoping that he'd have a
7 chance to get out and finish that probation.
8 It's a PTUP case. He's tried to pay that
9 off, and I think that there's a hundred and
10 something dollars left.

11 Your Honor, I would ask that you just
12 terminate his probation so that that
13 probation will be ended and won't have any
14 effect on the sentence.

15 Jason is in full agreement with this
16 seven years.

17 The injuries were horrific, no doubt
18 about it. I have pictures. I actually have
19 had time -- at the time that this incident
20 occurred, I actually represented Jason and
21 the victim, Dustin Lane. Dustin Lane then
22 received private counsel.

23 I believe that there is going to be a
24 civil suit for some issues as far as that
25 they put Dustin in that cell when there had

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1 already been a fight between Dustin and
2 somebody else, so that's why Dustin was in
3 that cell. He did -- the victim did plead to
4 a manufacturing meth charge after this, Your
5 Honor.

6 Jason, thought, actually has been
7 incarcerated for five hundred and fifty-five
8 days. He started his incarceration in
9 Dorchester County on an armed robbery charge.
10 At that time there was also a hold placed on
11 him for Berkeley County charges.

12 The Dorchester County charges were
13 dismissed for lack of prosecution, meaning
14 that they weren't able to prosecute that
15 case.

16 In December of 2012, he was transferred
17 to Berkeley County based off the hold. We
18 then went to trial on the burglary first, the
19 kidnaping and possession of a weapon during a
20 violent crime. He was found Not Guilty.

21 Obviously if all those charges were
22 dismissed, or if he was found not guilty, if
23 he wasn't in jail obviously this wouldn't
24 have happened with the inmate.

25 He takes full responsibility for what he

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1 did. He has no qualms about pleading. He's
2 always said that this is something that he
3 did. He's always said that this was his
4 fault, that it was something that he did. He
5 doesn't like that he did it, but he did do
6 it.

7 Your Honor, I am going to ask you to give
8 him credit for the 555 days that he did when
9 he was first in. He was nineteen years old
10 when he was first arrested. He is twenty-one
11 years old now. He knows that this is an
12 eighty-five percent charge. He knows that
13 he's going to be in for at least five years
14 more.

15 He had a one-year-old young boy who is
16 four years old (sic), we were hoping to work
17 it out so that he could see his child
18 possibly over Christmas. That just wasn't
19 going to work out.

20 When he was out on probation prior to
21 being arrest on these charges, I got his work
22 records. There is a possibility of an alibi
23 with our trial. He was working over part-
24 time. He was only employed part-time but he
25 was always on call. I had his manager on

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1 call, and she would call him whenever she
2 needed help to be at work. He was trying to
3 do the right thing before he got arrested on
4 those charges that then got dismissed.

5 Obviously being over in the jail is --
6 it's not easy. It got to him.

7 He is definitely apologetic for what
8 happened. He's learned a lot. I would ask
9 Your Honor to give him credit for the five
10 hundred fifty-five (555) days but to
11 definitely go along with the negotiated
12 sentence.

13 THE COURT: What is the State's
14 position?

15 SOLICITOR: Your Honor, our position is
16 that he is entitled to time from the time
17 that this crime was committed, which is
18 February 19th, 2013. That's two hundred
19 sixty-one (261) days. I think that's fair.

20 We could play the "if game" all day, but
21 if he had not committed the crime he would
22 have walked out.

23 THE COURT: Okay. Thank you. Mr.
24 James, when you enter this plea you give up
25 important rights. You give up your right to

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1 remain silent. You give up your right to a
2 jury trial. You give up your right to have
3 Mr. Shelton cross-examine and confront the
4 State's witnesses on your behalf. Do you
5 understand those rights, sir?

6 DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you want to waive those
8 rights and go forward with this plea today?

9 DEFENDANT: Yes, Your Honor.

10 THE COURT: Has anybody promised you
11 anything or done anything to try to force you
12 to plead guilty?

13 DEFENDANT: No, ma'am.

14 THE COURT: Are you happy with Mr.
15 Shelton's work for you?

16 DEFENDANT: Yes, Your Honor.

17 THE COURT: You have ten days to
18 appeal, if you wish to do so. I will accept
19 the negotiated plea.

20 I do find that Mr. James is pleading
21 knowingly, intelligently and voluntarily
22 today. He's been represented by an excellent
23 attorney and I'm comfortable with the
24 negotiation and the term. I do find that he
25 is in violation of the terms and conditions

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Before The Honorable Stephanie McDonald

1 of his probation. I will terminate that,
2 though, as it is getting ready to expire.

3 I believe that was a one year period and
4 he's going to be serving more than that now.

5 The sentence is going to be the
6 negotiated seven (7) years, with time-served
7 credit of two hundred and sixty-one (261)
8 days. Good luck to you, sir.

9 (HEARING CONCLUDED)

10
11
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State of South Carolina v. Jason LaTroy James

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Case No. 13-GS-08-0785

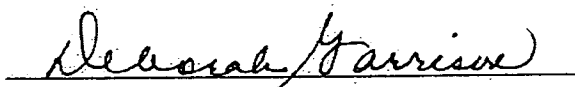
Hearing of November 6, 2013

Before The Honorable Stephanie McDonald

CERTIFICATE OF COURT REPORTER

I, the undersigned Deborah Garrison,
Circuit Court Reporter for the 9th Judicial
Circuit, hereby certify that the foregoing is
a complete and accurate transcript of the
hearing held in the within action heard on
November 6, 2013 before The Honorable
Stephanie McDonald;

I further certify that I am neither
kin nor counsel to any of the parties and
have no interest in the outcome of this
action.



Deborah Garrison

Charleston, South Carolina

June 30, 2014

FORM 5

STATE OF SOUTH CAROLINA)

) IN THE COURT OF COMMON PLEAS

County of Berkeley)Jason Latroy James)

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

#357760,)

v.)

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEFINSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention SCDC - Mc Dougall Corr. Inst.
1516 Old Gilliard Rd., Ridgeville, SC 29472
2. Name and location of Court which imposed sentence Berkeley
County Court at General Session
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2013GS0800785
(b) 1st Degree Murder by Robbery

FILED
2014 APR -8 PM 9:38
MARY F. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

FILED

- (c) Charles B. Kelly, Jr., Defendant
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) November 6, 2013
- (b) 7 (seven) years
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty After Sured Plea
- (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?
NO
8. If you answered "yes" to (7), list: N/A
- (a) the name of each Court to which you appealed: N/A
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed: N/A
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result: N/A
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results: N/A
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing: N/A
- (a) _____
- (b) _____

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

(c) the disposition thereof: *N/A*

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

(d) the date of each such disposition: *N/A*

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

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

- 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? *N/A*

15. If you answered "yes" to (14) identify: *N/A*

(a) which grounds have been presented: *N/A*

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

(b) the proceedings in which each ground was raised: *N/A*

- 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: N/A

(a) N/A
 (b) /
 (c) /

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

(a) your arraignment and plea? N/A (During Plea)
 (b) your trial, if any? /
 (c) your sentencing? Alternative
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A
N/A

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

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

i. (Plea and Sentencing)
Attorney of Record
 ii. see Bar # 76247
 iii. ()

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

i. Sentencing / Plea
 ii. /
 iii. /

- Jail Credits of some 296+ days for
Time spent in jail wherein Applicant
was Not Released. (2) Sentence Reduction

- 140

County of Berkeley

Jason L. James

(L.S.)

My Commission Expires March 4 2021

FILED
2014 APR -8 AM 9:38
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

2014 CP-08-742

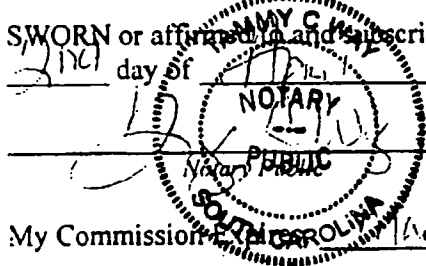
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Jason Latroy James # 357760, 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.

Jason L. James
Applicant

SWORN or affirmed and subscribed before me this
2nd day of April, 2014.



My Commission Expires

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

2014 APR -8 AM 9:38

FILED

March 27, 2014

Mary P. Brown -
Clerk of Court - Common Pleas
Berkeley Co., POB 219
Moncks Corner, SC 29461-

Dear Ms. Brown:

Please find Enclosed for filing my
Completed Application for Post-Conviction
Relief (PCR), Challenging my Conviction
for A & B by a Mob - 2nd Degree -
wherein I received a sentence of 7 (seven)
years.

Please forward your disposition in this
matter A.S.A.P.

- Jason L. James

Jason Latroy James, #357760
McDonough C. F.,
1576 Old Gilliard Rd.
Ridgerville, SC 29472

Applicant - Pro se

§ 16-3-60 (2011)

[Attached Sheets]

2014 CP-08-742

Legal Analysis

Brown v. State (S.C.), 340 S.C. 590, 533 S.E.2d 308 (2000), Edwards v. State, 710 S.E.2d 60 and Kolle v. State, 690 S.E.2d 73.

The Applicant would most respectfully ask this Honorable Court to issue an Order Granting the Relief He seeks in this Application, and especially Credits that are supposed to be Awarded to prisoners, pursuant to the Expressed provision of title § 24-13-40, for the Accrualment of any and all time served, even between Different Jurisdictions as is established in South Carolina Legislature.

The Applicant respectfully that during the Evidentiary Hearing He anticipates, that his attorney of Record be Held Legally liable for Ineffective Assistance of Counsel for not seeking to Obtain for Him the very Best possible outcome and Especially ensuring He was accredited for any and all time served that He

FILED
MAR 8 - 8 AM 9:39
MARY P. BRADY
CLERK OF COURT
BERKELEY COUNTY, SC

Should Have been Entitled to.
Counsel did not effectively Investigate Matter.

See Strickland v. Washington, 466 U.S. -
668, 104 S.Ct. 2052 and Johnson v. State, -
325 S.C. 182, 480 SE2d 733.

Respectfully Submitted,

Jason L. James

Jason La Troy James
Applicant - pro se

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	
	)	
	)	2014-CP-08-0742
Jason Latroy James, #357760,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post-conviction relief (PCR) filed April 8, 2014, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. The Applicant was indicted at the May 2013 term of the Berkeley County Grand Jury for assault and battery by mob- second degree (2013-GS-08-0785). The Applicant was represented by Chad Shelton, Esquire.

On November 6, 2013, the Applicant pled guilty. The Honorable Stephanie P. McDonald sentenced the Applicant to confinement for a period of seven years. The Applicant did not appeal his conviction or sentence.

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

II.

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

1. Ineffective assistance of counsel.
 - a. Counsel did not effectively investigate the matter.
 - b. Counsel did not seek to obtain the very best possible outcome for him.

III.

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

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

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

that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

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

V.

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

[Signature on the following page.]

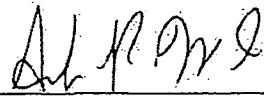
Respectfully submitted,

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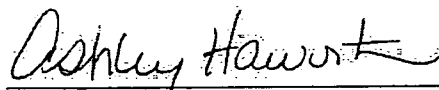
April 16th, 2015.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	
	)	
	)	2014-CP-08-0742
	)	
JASON LATROY JAMES, #357760	)	
	)	
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:

Mr. Rodney D. Davis, Esquire
 Lowcountry Law Office
 4000 Faber Place Drive, Suite 300
 Charleston, South Carolina 29405

DATED this 16th day of April, 2015.


 Ashley Haworth, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF BERKELEY) CASE NO. 2014-CP-08-0742
3 JASON LATROY JAMES,)
4 Plaintiff,) Transcript of Record
5 vs.)
6 STATE OF SOUTH) Date: September 9, 2015
7 CAROLINA,)
8 Defendant.)

9 * * * * *

10

11

12 B E F O R E:

13 The Honorable
14 LARRY B. HYMAN, JUNIOR

15

16

17

18 * * * * *

19

20 Denise J. Lauder, RPR

21 Ninth Judicial Circuit

22

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1 (The following proceedings were held
2 September 9, 2015, Charleston County Circuit Court,
3 Charleston, South Carolina, 1:34
4 a.m.)

5 MR. JOHNSON: May it please the Court,
6 Your Honor. This is Jason James v. State of South
7 Carolina, case number 2014-CP-08-0742. Mr. James
8 was indicted at the May 2013 term of the Berkeley
9 County Grand Jury for assault and battery by a mob,
10 second degree. He was represented by Chad Shelton.

11 On November 6, 2013, he pled guilty
12 before the Honorable Stephanie P. McDonald and was
13 confined for seven years. He did not appeal this
14 conviction of sentence. He filed this instant
15 action on April 8, 2014, and the State filed it's
16 return April 16th, 2015, and he is represented
17 today by Mr. Rodney Davis.

18 THE COURT: All right. Mr. Davis.

19 MR. DAVIS: Your Honor, may it please
20 the Court. If you would see fit, certainly I have
21 in our previous discussions with my client talked
22 to him about the potential benefits of the PCR
23 action and I've also talked to him about the risks
24 of the PCR action. To just follow up on what the
25 State indicated, obviously, we just -- we're just

1 reviewing the Statute here. It carries punishment
2 from 3 to 25, and so there is a potential risk of
3 -- even being successful here, that he might be
4 returned --

5 THE COURT: Absolutely. The trial
6 judge is not bound by the previous sentence.

7 MR. DAVIS: And, Judge, I would ask if
8 you would, quickly on the record, confirm that I
9 have gone over that.

10 THE COURT: Do you understand that,
11 Mr. James? I understand this was a plea; is that
12 correct?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: This was a plea and,
15 generally speaking, when there is a plea, there is
16 usually some sort of give and take negotiation back
17 and forth. I don't know if that was the case in
18 your case or not; however -- and I don't know if
19 there was any negotiation between your attorney and
20 the State as to the actual charge that you pled to.
21 I don't know.

22 But I will tell you this, if you are
23 successful on this PCR, you're back to square one,
24 you're back to the original charge. Again, that
25 may have been the one you pled to, I don't know.

1 You're back to the original charge and all bets are
2 off.

3 This is not a situation where the next
4 judge would be bound by Judge McDonald's sentence
5 of seven years. The next judge could give you
6 25 years if he or she saw fit to do so, if that was
7 appropriate. Again, if you are successful in the
8 PCR, you lose any benefit that you would have
9 gotten or did get as a result of your plea; as I
10 said, all bets are off, you're back to square one.
11 Do not rely on any representations made to you in
12 conjunction with that plea. It is a new deal and
13 you will be back looking at a minimum --

14 What was the original charge,
15 Mr. Davis? Did he plead as charged or indicted?

16 MR. DAVIS: Yes.

17 THE COURT: Okay. And it was 3 to 25?

18 MR. DAVIS: Yes.

19 THE COURT: Okay. So, Mr. Wilkerson,
20 if you are -- or, Mr. James, if you are convicted
21 on retrial, you can look for a sentence of no less
22 than three, but up to 25 years; do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Just so you
25 know.

1 And I would add, Mr. James, that it
2 could be argued both ways; that you would or would
3 not get credit for the time that you've already
4 served. Now, I don't know how that would be
5 resolved. Mr. Johnson is going to argue, no, you
6 don't get a day's time of credit -- or credit for
7 that time. That is preconviction time -- or
8 postconviction time. I'm sure Mr. Davis will take
9 the other argument. I don't know how it's going to
10 end. I don't believe that's been resolved by our
11 supreme court, but you've got some jeopardy. I
12 don't know how long you've served. How long have
13 you been in? How much time --

14 MR. DAVIS: Judge, this was a February
15 18th, 2013 -- I'm sorry, yeah, February 18, 2013,
16 seven-year sentence. They showed a projected
17 release date --

18 THE COURT: Two-and-a-half-years.

19 MR. DAVIS: -- January 20.

20 THE COURT: Right?

21 THE DEFENDANT: All together, really
22 three and a half.

23 THE COURT: Okay. What is your final
24 going to be, Mr. Davis?

25 MR. DAVIS: Your Honor, we are prepared

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 to go forward.

2 THE COURT: Very well.

3 MR. DAVIS: And we would call
4 Mr. James.

5 THE COURT: Mr. James, come forward.

6 JASON LATROY JAMES,

7 being first duly sworn, testified as follows:

8 THE CLERK: Please be seated. I need
9 you to speak into the mic, Mr. James, and state
10 your full name and spell your last name for the
11 record.

12 THE DEFENDANT: Jason Latroy James,
13 J-A-S-O-N, L-A-T-R-O-Y, J-A-M-E-S.

14 DIRECT EXAMINATION

15 BY MR. DAVIS:

16 Q. Mr. James, the case we're on PCR here,
17 the assault and battery by a mob, second, who was
18 your attorney for that case?

19 A. Chad Shelton.

20 Q. And do you see him in the courtroom
21 today?

22 A. Yes, sir.

23 Q. Just briefly, before we get to his
24 performance on this case, he represented you on
25 some prior pending charges in Berkeley County; is

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 that right?

2 A. Yes, sir.

3 Q. Okay. Ultimately, on those charges,
4 how did it resolve itself?

5 A. It came out well.

6 Q. By trial or they dismissed it, or what?

7 A. By trial; I got acquitted.

8 Q. So you went to trial on the other
9 charges with Mr. Shelton. Not guilty on all of
10 them, correct?

11 A. Yes.

12 Q. Last question about those set of
13 charges. Prior to that trial, what was his advice
14 about going to trial or working out a deal?

15 A. I don't need to go forward with trial.
16 I need to work out a deal because it ain't looking
17 too good for me.

18 Q. At the end of the trial, it was not
19 guilty on all charges; is that right?

20 A. Yes, sir.

21 Q. Now, connect that with this, the
22 assault and battery that you're now PCRing, where
23 is that -- where is that crime supposed to have
24 taken place?

25 A. In Berkeley County --

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 Q. Where in Berkeley County?

2 A. -- detention center. In B pod in the
3 county jail.

4 Q. Okay. So this crime allegedly happened
5 while you were in jail on these other charges that
6 you were acquitted of?

7 A. Yes, sir.

8 Q. Okay. On this charge, what was
9 Mr. Shelton's advice as far as going to trial or
10 trying to negotiate a deal?

11 A. Basically, that I don't need -- I'm
12 trying to figure out -- basically, what it was,
13 that I don't need to play no games, it ain't worth
14 it, because they're going to try to really slay me
15 I guess.

16 Q. Well, did you have discussions with
17 your attorney about your discovery?

18 A. Yes, for the most part.

19 Q. Okay.

20 THE COURT: Mr. Davis, I hate to
21 interrupt you; I hope I don't break your train of
22 thought. Was his probation -- a prior probation
23 violation to run concurrent with this?

24 MR. DAVIS: I believe it was just
25 terminated, Your Honor.

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 THE COURT: It says, concurrent
2 probation violation on the sentencing sheet. What
3 I'm getting at -- I think you know what I'm getting
4 at.

5 MR. DAVIS: Yes, Your Honor.

6 THE COURT: If he's got a probation
7 violation, that stands, even if I grant relief
8 here.

9 MR. DAVIS: I do understand it --

10 THE COURT: Do you need to speak to
11 him before we continue?

12 MR. DAVIS: If you would allow me, Your
13 Honor, yes.

14 THE COURT: I will allow him to step
15 down. I was just looking at his sentencing sheet
16 here. I have no idea what his probation status is,
17 but this was run concurrent, according to the
18 sentencing sheet, with a probation violation.

19 MR. DAVIS: May I just approach the
20 witness?

21 THE COURT: Yes. If he's violated the
22 probation for seven years, or whatever it is, even
23 if I grant relief, he gets retried and still has to
24 serve the sentence.

25 MR. DAVIS: I undersatnd. Thank you,

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 Your Honor. If I could have a moment.

2 (A brief recess transpired.)

3 MR. DAVIS: Your Honor, if I could
4 point out the last page of the plea transcript, the
5 first line.

6 THE COURT: Let me try to find it.

7 MR. DAVIS: Yes, Your Honor.

8 THE COURT: Okay. All right. It was
9 where?

10 MR. DAVIS: The top line of the last
11 page.

12 THE COURT: You give up your right to a
13 jury trial?

14 MR. DAVIS: No, I'm sorry, Your Honor.
15 May I approach, Your Honor?

16 MR. JOHNSON: Do you have a page 13,
17 Your Honor?

18 THE COURT: Okay. Page 13? Mine is
19 all put together backwards. Okay. All right. And
20 it appears that they amended the sentence sheet, so
21 it may not be wrong. Judge McDonald may have
22 awarded any probation that might be left to be run
23 concurrent with it. I just saw that and it gave me
24 some concern.

25 MR. DAVIS: And I do understand that,

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 Judge. And actually if we could have -- let me
2 have a moment with Mr. Shelton.

3 THE COURT: Sure.

4 (A recess transpired.)

5 MR. DAVIS: I want to be clear to the
6 Court for the record, despite -- and that's what I
7 recall. I recall reading the transcript where the
8 judge says, I shall terminate it, but -- a couple
9 of things there. Going on to the rest, it says, I
10 believe there is a one-year period of YOA on a
11 prior sentence. One year period to be serving --
12 he's going to be serving more than that now. So
13 there's some suggestion there that it was not --

14 THE COURT: It was converted to an
15 adult sentence?

16 MR. DAVIS: My understanding,
17 basically, after talking to Mr. Shelton and
18 Assistant Attorney General Johnson, is that -- that
19 -- and by looking at the sentencing sheet, I
20 believe it was the understanding that this new
21 85 percent ten-year sentence would just subsume the
22 YOA. Even -- if the case were not on PCR, or right
23 now we're not there, he would have already been
24 paroled out on that.

25 And I can tell the Court that when I --

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 the first thing I do when I get appointed, I pull
2 the Department of Corrections' sheet. It does list
3 both charges.

4 THE COURT: I have no idea what
5 classification this is, Mr. Davis.

6 MR. DAVIS: I understand, Your Honor.
7 I understand. If I could have one more moment with
8 my client.

9 THE COURT: Okay.

10 (A recess transpired.)

11 MR. DAVIS: Thank you very much, Your,
12 Honor.

13 THE COURT: Ready to go?

14 MR. DAVIS: We are prepared to
15 continue. Thank you for raising that issue.

16 THE COURT: All right.

17 BY MR. DAVIS:

18 Q. Okay. We were discussing conversations
19 you had with your attorney about this one
20 particular charge. How often would you say that
21 you met with Mr. Shelton about this charge, this
22 assault and battery charge?

23 A. Just a few times.

24 Q. And in those meetings, did he discuss
25 with you the charge of the assault and battery by a

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 mob, second degree?

2 A. You said did we discuss it?

3 Q. Uh-huh.

4 A. Yes, we did.

5 Q. Okay. Did he talk to you about what
6 the State would have to prove to convict you of
7 that charge?

8 A. Oh, yes. Yes.

9 Q. Okay. Did he discuss the theory --
10 South Carolina theory of accomplice liability
11 called the hand of one is the hand of all? Did you
12 talk about that?

13 A. Yes.

14 Q. Okay. And did he talk to you about the
15 option of going to trial?

16 A. You mean like what would happen if I
17 did?

18 Q. Yes.

19 A. Yes.

20 Q. And did he talk about risks of going to
21 trial?

22 A. Yes.

23 Q. What did he say the risk of going to
24 trial was?

25 A. That they would probably find me guilty

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 and I would get 25 -- get the max.

2 Q. Did he talk to you at all about any
3 positive benefits of going to trial?

4 A. No.

5 Q. Based on his explanation to you that if
6 you went to trial you would be found guilty and
7 probably get 25 years, did he have a suggestion on
8 what you ought to do on this charge?

9 A. Yes.

10 Q. And what was that?

11 A. Take a plea.

12 Q. Okay. Now, in making your decision on
13 taking a plea or not, were there things that you
14 wish Mr. Shelton had informed you better about?

15 A. Yes.

16 Q. What were those things?

17 A. Well, I mean, there was other evidence
18 that I wasn't able to get hold of to really see,
19 like what they would actually have against me. You
20 know what I'm saying? As far as if they would
21 found me guilty or not. That right there was just
22 something that really deterred me from that, see
23 what I'm saying? Like, I'm trying to think of the
24 right words. Like, the support, you know what I'm
25 saying, on my behalf. You know what I'm saying?

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 To actually feel the need to stand for at trial.

2 Q. You're talking about the evidence the
3 State would have used -- if that wasn't formed
4 fully enough. Did he review the discovery with you
5 or give you a copy of it?

6 A. He give me a copy of it, but, basically
7 told me I needed to send it home. You know what
8 I'm saying? Told me it wasn't a good idea for me
9 having it back there.

10 Q. Back there meaning at the jail?

11 A. Yes.

12 Q. Did you keep it or send it home?

13 A. Send it home. He said, because -- he
14 said, because, you know, basically, dealing with
15 other inmates being back there, and it happened in
16 the county, it wouldn't have been a good idea to
17 have it back there.

18 Q. Did the State come to you with a first
19 offer?

20 A. As far as you're talking about on
21 paper?

22 MR. JOHNSON: Your Honor, I'm going to
23 have to object to the offer issue. It was not
24 listed in the PCR application, and the only things
25 he listed in the PCR application was ineffective to

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 investigate and then --

2 THE COURT: It's a negotiated plea.
3 We know what the offer was; it's in the transcript.

4 BY MR. DAVIS:

5 Q. There was some back and forth
6 negotiation before you pled; is that fair?

7 A. Yes.

8 Q. Okay. The original offer the State
9 improved; is that fair?

10 A. Oh, yes, sir.

11 Q. Was it what you were asking your
12 attorney to attempt to get for you as a deal?

13 A. No, sir.

14 Q. Okay. Despite the fact it's not what
15 you were wanting to get from the State as an offer,
16 what was Mr. Shelton's advice on taking the State's
17 offer or not?

18 A. That it would be the best thing to do,
19 because if I didn't, they would probably -- you
20 know, they would probably try to raise it real high
21 or take it away and force me to go to trial.

22 Q. Did you remain in jail or did you bond
23 out on this charge?

24 A. I remained in jail the whole time.

25 Q. In deciding whether to take a plea deal

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 or not, was there a time -- was there a deadline
2 that Mr. Shelton told you about?

3 A. Yes, sir.

4 Q. Do you remember when that was?

5 A. Not exactly. I know it was basically
6 right before -- you know, technically right after I
7 was supposed to be taking a plea. If I'm not
8 mistaken, it was sometime in the beginning of
9 November.

10 Q. And so this deal, you had a time frame
11 to take it or you were going to lose the offer?

12 A. Yes, sir.

13 Q. Did you ever talk to your attorney
14 about trying to have more time to decide about
15 that?

16 A. Yes, sir.

17 Q. Okay. When were you hoping to have a
18 deadline by?

19 A. Probably sometime after January.

20 Q. And what, if anything, did your
21 attorney do to accomplish that?

22 A. Nothing really.

23 Q. When it came time to enter this plea in
24 court, for you to go into court, what was your
25 opinion of Mr. Shelton's preparedness or ability to

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 go to trial had you not pled?

2 A. On this charge right here?

3 Q. Yes, sir.

4 A. Me personally, I didn't -- he wasn't,
5 like, I guess enthusiastic. Like, he was basically
6 telling me, if you go to trial, you know what I'm
7 saying, these people are going to hang you. You
8 know what I'm saying? The whole thing. So that
9 kind of put fear in my heart. You know what I'm
10 saying? Especially after him already, you know
11 what I'm saying, dealing with my other charge,
12 basically telling me that it wasn't looking good,
13 even though I didn't do it, you know what I'm
14 saying, it was best that you plead out.

15 So then that kind of have me scared on
16 this plea right here, that he was saying the same
17 thing. So I just really was afraid.

18 Q. Do you recall how many people were
19 arrested on this charge?

20 A. Yes, sir; three all together, me and
21 two other individuals.

22 Q. You and two other individuals. Did you
23 and Mr. Shelton discuss the ability of the victim
24 to identify the individuals that were involved?

25 A. No, not really. No, sir.

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 Q. Do you recall through discovery how it
2 was that you were identified as one of the
3 individuals involved?

4 A. No, sir, just by my name.

5 Q. Did Mr. Shelton ever discuss that at
6 trial a jury might be able to convict you of a
7 lesser included offence?

8 A. No, sir.

9 Q. Did you plead guilty based on Mr.
10 Shelton's advice?

11 A. Yes, sir.

12 Q. Just to wrap up, Mr. James, if Mr.
13 Shelton had talked to you about the ability to try
14 to argue against your identification at trial,
15 would you have asked for a trial or would you have
16 accepted this plea?

17 A. I would have asked for a trial.

18 Q. If Mr. Shelton would have told you it
19 was possible that a jury could come back with a
20 verdict of not guilty or guilty of a lesser charge,
21 would you have accepted this plea or gone to trial?

22 A. I would have gone to trial.

23 Q. If you had felt that Mr. Shelton was
24 prepared on this charge to go to trial and defend
25 you, would you have accepted this plea or gone to

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 trial?

2 A. Gone to trial.

3 Q. Mr. James, I believe that covers
4 everything. Is there any other complaints that you
5 have about Mr. Shelton's performance leading up to
6 this guilty plea?

7 A. No, sir.

8 MR. DAVIS: Okay. Thank you. The
9 attorney general may have some questions for you.

10 Thank you, Your Honor.

11 THE COURT: Mr. Johnson.

12 CROSS-EXAMINATION

13 BY MR. JOHNSON:

14 Q. Mr. James, you pled guilty knowing it
15 was a negotiated seven years; did you not?

16 A. Yes, sir.

17 Q. And the State read the facts at your
18 plea and you agreed with those facts, correct?

19 A. Yes, sir.

20 Q. Okay. And you plead guilty to avoid
21 risking 25 years in prison; isn't that correct?

22 A. Yes, sir.

23 Q. And you gave up the right to a trial;
24 isn't that right?

25 A. Yes.

JASON LATROY JAMES - DIRECT EXAM BY MR. DAVIS

1 Q. And the right to remain silent,
2 correct?

3 A. Yes, sir.

4 Q. And the right of Mr. Shelton to
5 confront your accusers, correct?

6 A. Yes.

7 Q. Including the inmate that was
8 assaulted, right?

9 A. Yes.

10 Q. And his ID of you, right?

11 A. Yes, sir.

12 Q. And you waived those rights and wanted
13 to plead guilty, like I said, to avoid the
14 25 years, correct?

15 A. Yes.

16 Q. And you did that not being promised or
17 threatened in any way, correct?

18 A. I mean, I did feel threatened as far
19 as, like I said, afraid. You know what I'm saying?

20 Q. At the plea you said that nobody forced
21 you to plead guilty?

22 A. Yes, sir.

23 Q. And you said at the plea that you were
24 happy with Mr. Shelton's work, correct?

25 A. Yes, sir.

JASON LATROY JAMES - EXAM BY THE COURT

1 Q. But now you're complaining about his
2 work, right?

3 A. Yes.

4 Q. So you lied under oath in the guilty
5 plea?

6 A. Because he told me that's what I had to
7 plea.

8 Q. You never told the judge that, did you?

9 A. No, sir.

10 MR. JOHNSON: Okay. No further
11 questions, Your Honor.

12 THE COURT: You may step down.

13 EXAMINATION

14 BY THE COURT:

15 Q. Let me ask you this: Tell me what your
16 lawyer did -- wait a minute. Tell me specifically
17 what your lawyer failed to do.

18 A. Basically, like I said, inform me, you
19 know what I'm saying, of all my evidence.

20 Q. No, I don't know what you're saying.

21 A. Sir.

22 Q. Tell me what you're saying. Don't say,
23 you know what I'm saying.

24 A. Oh, I apologize. He didn't inform me,
25 you know what I'm saying, about all the evidence I

JASON LATROY JAMES - EXAM BY THE COURT

1 had in my case and basically told me, you know what
2 I'm saying, that --

3 Q. Well, hadn't you confessed in this
4 matter? Hadn't you given a statement of
5 confession?

6 A. No, sir.

7 Q. You didn't? You did during your plea,
8 didn't you?

9 A. Sir?

10 Q. You did during the plea, didn't you?

11 A. Oh, oh, yes, sir.

12 Q. Okay. And I'm looking at your plea
13 here and I'm looking at page 7. The Solicitor is
14 setting forth the facts that you eventually agreed
15 with. And you said, also, on or about August, the
16 defendant confessed that he, along with the other,
17 beat up the defendant -- I mean, the victim,
18 Mr. Lane. You didn't confess to that?

19 A. No, sir, I ain't never once said I put
20 my hands on anybody.

21 Q. So he didn't keep you informed.
22 Informed of what?

23 A. Basically, like all the evidence, you
24 know what I'm saying, of everything --

25 Q. What evidence did he not inform you of?

JASON LATROY JAMES - EXAM BY THE COURT

1 A. They said that there was something
2 about a CD, or something like that, pertaining to
3 my case. And there was --

4 Q. What kind of CD? What's on it? You're
5 telling me he didn't keep you informed of all the
6 evidence. Do you know what the evidence is now?

7 A. No, sir.

8 Q. Then you're just assuming that there
9 must be some evidence that he didn't inform you of?

10 A. Yes, sir.

11 Q. You don't know that there is, you just
12 assume?

13 A. No, sir. There is -- there is -- there
14 was two things all together that I didn't know
15 about.

16 Q. What are those? That's what I'm
17 asking.

18 A. One of them is a CD and --

19 Q. What was on the CD?

20 A. I don't know.

21 Q. You don't know. So you don't know if
22 it would help you or hurt you?

23 A. No, sir.

24 Q. You don't know?

25 A. No, sir.

JASON LATROY JAMES - EXAM BY THE COURT

1 Q. What was the other thing?

2 A. There was another piece of information.
3 Like I said, I just got my transcript dealing with
4 pieces of my motion.

5 Q. What piece of information was that?

6 A. I don't have my motion with me right
7 now.

8 Q. You don't know?

9 A. No, sir.

10 Q. You don't know what the piece of
11 information is. What else did he not do?

12 A. Basically, didn't -- I'm trying to
13 think of the right word. Didn't give me the
14 impression that he wanted to go forward with the
15 trial. Like he wasn't going to put forth the
16 effort to try to win it.

17 Q. You didn't feel like he was
18 enthusiastic about your case.

19 A. Yes, sir

20 Q. What else?

21 A. He told me if I were to go forward with
22 trial, that I would get the max.

23 Q. And you don't know whether that was
24 true or not, do you.

25 A. No, sir.

JASON LATROY JAMES - REDIRECT EXAM BY MR. DAVIS

1 Q. You may very well have gotten the max?

2 A. Yes, sir.

3 Q. What else?

4 A. That's about it.

5 THE COURT: Okay. Anything further,

6 Mr. Davis?

7 MR. DAVIS: If I may, just briefly,

8 Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. DAVIS:

11 Q. Any information you provided to police,
12 did you and Mr. Shelton discuss that?

13 A. Any information that I provided to
14 police?

15 Q. Yes.

16 A. I really don't understand, like, what
17 you're saying.

18 Q. Was there any discussion about any
19 information that you provide to the police?

20 A. No, sir.

21 MR. DAVIS: No other questions, Your
22 Honor.

23 THE COURT: Anything further,
24 Mr. Johnson?

25 MR. JOHNSON: No, sir.

CHAD SHELTON - DIRECT EXAM BY MR. DAVIS

1 THE COURT: You may step down.

2 MR. DAVIS: We would call Chad Shelton,
3 Your Honor.

4 CHAD SHELTON,
5 being first duly sworn, testified as follows:

6 THE CLERK: Please state your full name
7 and spell the last name.

8 THE WITNESS: Chad Daniel Shelton,
9 S-H-E-L-T-O-N.

10 DIRECT EXAMINATION

11 BY MR. DAVIS:

12 Q. Mr. Shelton, how many times,
13 approximately, would you say you met with Mr. James
14 leading up to the guilty plea?

15 A. Just concerning -- just concerning
16 specifically this case? Because he had the other
17 armed robbery case. Leading up to trial, I
18 probably met with him at least once -- once a week,
19 sometimes twice in that week. I would go back and
20 talk to him.

21 Q. But that was primarily preparing for
22 the --

23 A. For the armed robbery trial.

24 Q. Can you give the Court some type of
25 idea when you would have had discussions about this

CHAD SHELTON - DIRECT EXAM BY MR. DAVIS

1 charge?

2 A. I don't have -- I didn't pull that, so
3 I apologize. I do have my jail records at my
4 office, but I didn't pull that. I would say,
5 guess, once a month I tried -- tried to get over
6 there and see him at least once a month, if not
7 once every month and a half.

8 Q. And so for what period of time then?

9 A. Our trial I believe was in August for
10 the armed robbery, and we pled here. So that would
11 have been at least two other times I would have had
12 a chance to see him concerning this specific case,
13 but I also talked about it leading up to the armed
14 robbery charge.

15 Q. Okay. It was, in fact, your advice on
16 the charge you went to trial on not to go to trial
17 and enter a plea, correct?

18 A. Yes, depending on the -- it was a very
19 serious case. He could have likely gotten life
20 without parole if found guilty, and it was just
21 depending on the offers and the offers coming back,
22 and that was, you know, my recommendation based off
23 of the facts of the case and how serious it was.

24 Q. There were more than a half dozen
25 charges, if I recall correctly?

CHAD SHELTON - DIRECT EXAM BY MR. DAVIS

1 A. It was a burg first and then armed
2 robbery I believe with --

3 MR. JOHNSON: I'm going to object to
4 relevance on this case as to his prior offers.

5 THE COURT: I'll hear it.

6 MR. JOHNSON: Thank you.

7 THE WITNESS: Six counts of kidnapping,
8 burg first, and possession of a weapon during a
9 violent crime. So seven -- eight charges.

10 BY MR. DAVIS:

11 Q. It is fair to say that your -- the
12 volume and length of meetings on this charge were
13 less than on the ones you went to trial on,
14 correct?

15 A. Yes, absolutely.

16 Q. Ultimately, your advice on this case
17 was to accept the plea that was offered?

18 A. Yes.

19 Q. Okay. In this case you would have
20 advised him about the risks of going to trial, the
21 potential range of punishment on this charge,
22 correct?

23 A. Yes, absolutely.

24 MR. DAVIS: If I could have just one
25 moment.

CHAD SHELTON - DIRECT EXAM BY MR. DAVIS

1 (Off-the-record conference.)

2 BY MR. DAVIS:

3 Q. Do you recall providing discovery to
4 your client?

5 A. Yes. I recall providing him a copy of
6 all the discovery in every case -- both cases.

7 MR. DAVIS: Your Honor, if I could have
8 a moment.

9 BY MR. DAVIS:

10 Q. One last topic, Mr. Shelton. Did you
11 discuss with him your ability at trial to try to
12 either suppress or explain the identification of
13 him as being one of the perpetrators in this
14 incident?

15 A. I don't recall. I do know that as far
16 as the -- some of the testimony earlier -- the
17 confession took place in jail phone calls. So
18 there were some jail phone calls that he admitted
19 to assaulting the victim. In my discussions with
20 Jason, it was mainly about whether they could prove
21 that there was an agreement between him and the
22 co-defendants and whether there was a premeditated
23 agreement leading up to it.

24 That essentially -- I don't know if I
25 used the terms, lesser included, or anything like

CHAD SHELTON - DIRECT EXAM BY MR. DAVIS

1 that, I can't remember that, but essentially that
2 we would be arguing for an assault and battery
3 first.

4 It was my opinion that -- due to the
5 nature of the assault and the pictures, that there
6 was a chance that a jury would not believe that.
7 There was a chance that the jury would not believe
8 anything we were trying to say and that he would be
9 found guilty based off of the injuries that
10 occurred to the victim and the assault that took
11 place.

12 Q. And those photos were shared with
13 Mr. James as well?

14 A. Yes.

15 Q. One final thing on that topic. I
16 believe the initial identification of Mr. James was
17 based on voice, not eyesight identification; is
18 that right?

19 A. The victim did say it was Mr. James.

20 Q. Based on seeing him or based on what he
21 -- what the perpetrators said that he thought was
22 Mr. James?

23 A. He -- he said it was Mr. James, yeah.

24 MR. DAVIS: Okay. Thank you, Mr.
25 Shelton. That's all I have.

CHAD SHELTON - CROSS EXAM BY MR. JOHNSON

1 MR. JOHNSON: Briefly Your Honor.

2 CROSS-EXAMINATION

3 BY MR. JOHNSON:

4 Q. Did you advise Mr. James of the fact
5 that there was a potential risk of 25 years?

6 A. Yes.

7 Q. Did you ever say that he would get the
8 max?

9 A. I said it was a possibility,
10 absolutely.

11 Q. And you would have discussed the
12 possible benefits of a plea versus trial?

13 A. Yes, absolutely.

14 Q. Did he ever ask you for a continuance
15 in this case?

16 A. If he says he did, then I have no
17 reason to doubt that. I know that the Solicitor
18 that handled the kidnapping and burg first charge,
19 it was the same Solicitor that was handling the
20 assault and battery by a mob. And he felt that he
21 lost that case and he wanted to go to trial quickly
22 on this assault and battery by a mob. He felt like
23 he had really good evidence and he was prepared to
24 go forward on the -- for trial.

25 There was a lot of discussions between

CHAD SHELTON - CROSS EXAM BY MR. JOHNSON

1 myself and the Solicitor on a resolution to the
2 case. I did talk to the Solicitor about assault
3 and battery -- lowering it down to an assault and
4 battery by a mob, third degree, which is a zero to
5 one-year charge. He would not agree to that. I did
6 also talk to him about doing assault and battery,
7 first. This was -- he would not agree to that.

8 He originally gave an offer of ten
9 years. I tried to get it down to three, the
10 minimum; he would not agree. I tried to get it to
11 five, and then we came to an agreement on the
12 seven. I talked to Jason about that and it was his
13 decision to take it, obviously, with my
14 recommendation. I did feel it was in his best
15 interest.

16 He was also facing a youthfull offender
17 act sentence as part of his probation, which would
18 have been a three-year minimum. If he was violated
19 on that probation, he would have had to do three
20 years for the YOA. So I thought it was -- that
21 seven years was close to that amount of time. So I
22 did tell him that, you know, with my recommendation
23 -- it was my recommendation to take the deal and he
24 would be let out without probation or anything else
25 hanging over his head.

CHAD SHELTON - CROSS EXAM BY MR. JOHNSON

1 Q. And Mr. James agreed to that, correct?

2 A. Yes.

3 Q. And you never forced him to take that
4 plea?

5 A. No.

6 Q. Never threatened him in any way?

7 A. No.

8 Q. Never promised him anything?

9 A. No.

10 Q. And you would have discussed the lesser
11 included with him?

12 A. Yes. I don't know if I used those
13 terms, but I would have discussed alternate
14 charges, alternate things that we could argue for.

15 Q. And did you discuss with him had he
16 gone to trial you would have been able to challenge
17 the identification?

18 A. Yes. We could -- we could have done as
19 much as we did in the previous trial.

20 Q. Did you feel prepared in this case?

21 A. Yes.

22 Q. How long have you been practicing law?

23 A. Eight years now.

24 Q. And did you make your decisions with
25 Mr. James based on your experience?

CHAD SHELTON - EXAM BY THE COURT

1 A. Yes, sir.

2 Q. And the facts of the case?

3 A. Yes.

4 MR. JOHNSON: No further questions, Your
5 Honor.

6 EXAMINATION

7 BY THE COURT:

8 Q. Let me get this right, Mr. Shelton.
9 You had just taken him to trial on eight charges
10 for which he could have gotten up to life,
11 kidnapping, armed robbery --

12 A. Yes, sir.

13 Q. -- and all the accompanying charges?

14 A. Yes, sir.

15 Q. Two months later with the same
16 Solicitor, you were faced with the trial where he
17 could have gotten up to 25 years?

18 A. Yes, sir.

19 Q. You had a serious injury. I think the
20 victim actually lost part of his vision in one eye;
21 did he not?

22 A. Yes.

23 Q. Serious injuries, a jailhouse phone
24 call confession?

25 A. Yes.

CHAD SHELTON - EXAM BY THE COURT

1 Q. A victim identification?

2 A. Yes, sir.

3 Q. And you negotiated a seven out of 25
4 sentence?

5 A. Yes, sir.

6 Q. And explained that to your client and
7 he took it?

8 A. Yes, sir.

9 Q. He says you weren't enthusiastic enough
10 about his case. Were you enthusiastic about his
11 case?

12 A. I was enthusiastic about Jason, but not
13 about the case, no.

14 Q. Let me ask you this: Do you know
15 anything about a CD?

16 A. CD?

17 Q. A CD that is a supposed to be in
18 evidence?

19 A. Yes, sir. That was the jail phone
20 calls.

21 Q. That was a really helpful piece of
22 information, wasn't it?

23 A. Yes, sir.

24 Q. How about this other thing -- I don't
25 know what -- some other kind of statement or

1 something? Do you know anything about that?

2 A. The statement from Mr. James on the
3 jail phone calls.

4 Q. If you had to do it again, Mr. Shelton,
5 would you change a thing?

6 A. Not at all.

7 THE COURT: Do you want to recross or
8 redirect?

9 MR. DAVIS: No, Your Honor.

10 THE COURT: Okay.

11 MR. JOHNSON: No, thank you, Your
12 Honor.

13 THE COURT: You may step down, Mr.
14 Shelton.

15 MR. DAVIS: That concludes the
16 plaintiff's recitation.

17 THE COURT: All right.

18 MR. JOHNSON: The State has no
19 witnesses.

20 THE COURT: All right. I'm going to
21 deny the relief. I think Mr. Shelton has shown his
22 skill and ability in the handling of this case and
23 the other case that he tried for the defendant. He
24 is certainly -- the defendant certainly failed to
25 show that he was deficient in any manner or that he

1 was prejudiced by Mr. Shelton's representation.

2 He has completely failed to show
3 anything that would be consistent with Strickland
4 or Cherry in his attempts to discredit his
5 attorney's performance; therefore, I'm going to
6 deny relief. Thank you.

7 MR. JOHNSON: Thank you.

8 MR. DAVIS: Thank you.

9 (These proceedings were concluded at
10 2:21 p.m.)

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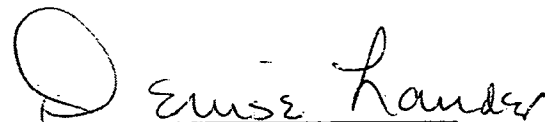
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CERTIFICATE OF REPORTER

I, Carol Denise Lauder, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 20th day of February, 2016 at Charleston, Charleston County, South Carolina.


Carol Denise Lauder
Registered Professional
Reporter, CP
My Commission expires
August 2, 2017

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Jason Latroy James, #357760,

2014-CP-08-0742

Applicant,

ORDER OF DISMISSAL

v.

State of South Carolina,

Respondent.

FILED
15 OCT 16 PM 1:43
CLERK OF COURT
BERKELEY COUNTY, S.C.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed April 8, 2014. Respondent made its Return on April 16, 2015. An evidentiary hearing into the matter was convened on September 9, 2015 at the Charleston County Courthouse. Rodney Davis, Esquire represented Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. Chad Shelton, Esquire also testified. This Court had before it a copy of the records of the Berkeley County Clerk of Court, records from the South Carolina Department of Corrections, the application, the State's Return and the guilty plea transcript.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. The Applicant was indicted at the May 2013 term of the Berkeley County Grand Jury for assault and battery by mob-second degree (2013-GS-08-0785). The Applicant was represented by Chad Shelton, Esquire.

On November 6, 2013, the Applicant pled guilty. The Honorable Stephanie P. McDonald sentenced the Applicant to confinement for a period of seven years. The Applicant did not appeal his conviction or sentence.

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

1. Ineffective assistance of counsel.
 - a. Counsel did not effectively investigate the matter.
 - b. Counsel did not seek to obtain the very best possible outcome for him.

At the hearing, the Applicant proceeded on his claims of ineffective assistance of plea counsel.

SUMMARY OF TESTIMONY

At the evidentiary hearing, Applicant testified Counsel had represented him on previous charges. This conviction stemmed from an incident inside the Berkeley County jail while Applicant was indicted for other charges. Applicant stated Counsel advised him to accept a guilty plea. Applicant admitted Counsel discussed discovery with him and met with him a few times. Counsel discussed the hand of one, hand of all theory to Applicant and discussed the risks of a trial; that if he were found guilty, he could receive up to 25 years in prison. Applicant claimed Counsel did not discuss potential benefits with him, but simply told him to accept a plea. Applicant testified he wished he had better information and had known about other evidence in his case.

Applicant testified this was a negotiated plea in which Counsel was able to obtain a more beneficial offer for Applicant than the initial offer. Applicant stated he accepted the plea right before November term of court, as he either had to accept it or he would lose the offer. Applicant claimed

he did not think Counsel was prepared and that there were three people arrested for this charge. Applicant testified he did not discuss Victim's identification of co-defendants with Counsel but was accused by Victim by name. Applicant testified Counsel did not discuss with him any lesser included offenses and that he pled guilty on Counsel's advice. Applicant lastly testified he would have proceeded to trial he had known about Victim's identification of the co-defendants.

On cross-examination, Applicant admitted he pled guilty to avoid facing 25 years in prison. Applicant admitted he pled guilty knowing the facts of the case as presented by the solicitor at the plea. Applicant admitted he freely relinquished his right to a trial and to confront his accusers. Applicant further admitted there were no promises made in this case and that he failed to explain to the plea judge that he was unsatisfied with Counsel's performance.

This Court then asked Applicant what other evidence he believed Counsel should have discussed with him, to which Applicant replied a compact disc (CD), but he did not know any of the contents of the CD. Applicant also stated he did not get the impression that Counsel was enthusiastic about his case and was told he would receive the maximum penalty.

Counsel testified he met with Applicant once per week on Applicant's other case and once per month on this case. Counsel stated his advice was to accept the plea offer from the State. Counsel also testified he discussed the risks of a trial with Applicant and gave a copy of the discovery to the Applicant. While Counsel did not specifically recall discussing the potential suppression of Victim's identification of Applicant with him, it would have been his normal practice to do so. The confessions Counsel discussed with Applicant were found in recordings of Applicant's phones calls from jail. These calls proved there was an agreement and premeditation between the co-defendants. If the case went to trial, Counsel testified he would have argued for a lesser charge of

Assault and Battery, 1st degree because the jury might believe not believe Applicant's version of the facts. Counsel also stated he shared photographs with Applicant and that Victim's identification of Applicant consisted of Victim specifically saying that Applicant assaulted him.

On cross-examination, Counsel testified the solicitor in this case lost Applicant's trial on the other charges so he wanted a quick trial in this case. Counsel spoke with the solicitor about lesser charges, but the solicitor would not agree to them. The first offer was ten years so Counsel counter-offered with three and five years, but the solicitor would only agree on a sentence as low as seven years. Applicant accepted this offer. Counsel stated he made no threats or promises to Applicant and that it was Applicant's decision to plead guilty.

This Court asked Counsel whether this was a negotiated plea, which Counsel answered in the affirmative. This Court then asked Counsel if he could go back and change anything about this case would he, to which Counsel responded in the negative.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

Ineffective Assistance of Counsel

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

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

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

This Court finds the Applicant's testimony regarding Counsel's ineffectiveness is not credible while also finding Counsel's testimony is credible.

This Court also finds Counsel provided effective assistance of counsel in this case. Counsel advised Applicant of the charge and the sentence the charge carried. Specifically, Counsel testified he discussed that this charge could potential carry 25 years. Counsel testified he discussed the

discovery materials with Applicant, including the jail phone calls and the fact that Victim identified Applicant. Counsel also negotiated with the State in Applicant's best interest. Specifically, Counsel negotiated a plea to 7 years. This Court finds Applicant made the decision to plead guilty on his own accord with the help of learned counsel. Additionally, this Court finds Applicant made this decision freely and voluntarily without any threats or promises from anyone else. Furthermore, this Court finds that it was ultimately the Applicant's decision to plead guilty.

This Court finds the Applicant has failed to meet his burden of proving counsel's performance was deficient or that he was prejudiced thereby.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these allegations are denied.

CONCLUSION

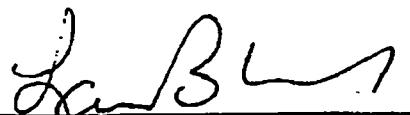
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice. This Court also finds as to all other allegations that Applicant failed to present evidence of such claims and thus, this Court deems them abandoned.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Anstin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED!



Larry B. Hyman
Presiding Circuit Court Judge
Ninth Judicial Circuit

1073, 2015

Court, South Carolina

DEJ2013-02-00543

WITNESSES

Berkeley County Sheriff's Office

B. R. R. 5/15/13

AGENCY CASE NUMBER

2013-02007447

ARREST WARRANT NUMBER

2013A0810400320

DATE OF ARREST

February 22, 2013

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury
Date: *05.15.13*

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2013GS0800785

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

May Term

THE STATE

VS.

JASON LATROY JAMES

DOB:

B/M

Indictment for

Assault & Battery by Mob 2nd Degree

§16-03-0210(C)

CDR: 3432

CERTIFIED TRUE COPIES OF RECORD

Mary P. Brown

CLERK OF COURT, C.P. & O.C.

BERKELEY COUNTY, S.C.

DATE: *5/15/13*

13 MAY 15 AM 11:17

JANET P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

FILED

JH

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

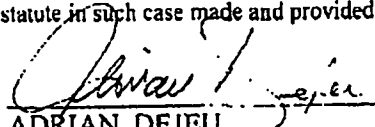
INDICTMENT

At a Court of General Sessions, convened on May 15, 2013 the Grand Jurors of Berkeley County present upon their oath:

Assault & Battery by Mob 2nd Degree

That JASON LATROY JAMES did in Berkeley County, South Carolina, on or about February 19, 2013, unlawfully injure, or offered or attempted to injure the victim, Dustin Lane, with the present ability to do so, and serious bodily injury to the victim resulted or could have resulted, in violation of §16-03-0210(C) of the South Carolina 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.


ADRIAN DEJEU
ASSISTANT SOLICITOR