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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

S.C. Supreme Court

Appeal from Florence County

William H. Seals, Jr., Circuit Court Judge

CHRISTOPHER DEVON JONES,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-211292

A P P E N D I X

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STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE)	2008-GS-21-1242
)	2010-GS-21-507
)	
)	
State of South Carolina))
)	
vs.)	TRANSCRIPT OF RECORD
)	
Christopher D. Jones))
<u>DEFENDANT</u>)	April 20, 2010
		Florence, South Carolina

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES, JUDGE.

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

FITZLEE MCEACHIN, ASSISTANT SOLICITOR
Attorney for the State

JACK LAWSON, PUBLIC DEFENDER
SCOTT FLOYD, ASSISTANT PUBLIC DEFENDER
Attorneys for the Defendant

KESHIA REED
Official Court Reporter

I N D E X

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(WHEREUPON, there were no witnesses called.)

1 THE COURT: Mr. McEachin, you recognize.

2 MR. MCEACHIN: Thank you, Your Honor. May it
3 please the Court, standing before you is Christopher
4 Jones. He's pleading guilty to two separate indictments
5 first being indictment number 2008-GS-21-1242, that was a
6 true billed indictment for murder. He's pleading guilty
7 to a lesser-included offense of voluntary manslaughter
8 with a negotiated 15-year sentence to be run concurrent.
9 He's represented by Scott Floyd and Jack Lawson of the
10 public defender's office. The second indictment is
11 indictment number 2010-GS-21-507, that's a true billed
12 indictment for one count of attempted arm robbery. He
13 will be pleading guilty as indicted for a 15-year sentence
14 to be run concurrent on that charge. And on that, he's
15 also represented by Jack Lawson and Scott Floyd of the
16 public defender's office, Your Honor.

17 THE COURT: Thank you, Mr. McEachin.

18 Mr. Lawson, do you and Mr. Floyd represent
19 Mr. Jones?

20 MR. LAWSON: Yes, Your Honor, we do.

21 THE COURT: Have you explain to him in great
22 detail the offense of attempted arm robbery, the fact he
23 could receive up to 20 years for that? Voluntary
24 manslaughter the fact that he could receive up to 30 years
25 for that and a minimum mandatory of two years. The

1 elements of the offense, potential defenses and his
2 Constitutional Rights?

3 MR. LAWSON: I have, Your Honor.

4 THE COURT: And how does he wish to plead?

5 MR. LAWSON: Guilty, Your Honor.

6 THE COURT: Do you agree with his decision to do
7 so?

8 MR. LAWSON: I do, Your Honor.

9 THE COURT: Do you feel if called upon to do so
10 the State could prove him guilty beyond a reasonable
11 doubt?

12 MR. LAWSON: Yes, Your Honor. If I might add
13 for the purpose of the record, that this case has been
14 tried to completion one time with the jury being unable to
15 reach a verdict, it was miss tried as a result. So not
16 only myself and Mr. Floyd sat through the trial and
17 participated in that trial fully, but also Mr. Jones was
18 involved fully in the trial of the original case in
19 October of last year 2009.

20 THE COURT: All right. Mr. Lawson, this is a --
21 I'm sure that you've explained to your client the fact
22 that this is a -- both of these offenses the attempted arm
23 robbery and the voluntary manslaughter are a special
24 category of offenses both are violent which adversely
25 affects his custody status. He understands that, doesn't

1 he?

2 MR. LAWSON: He does, Your Honor.

3 THE COURT: And the fact that these -- both of
4 them attempted arm robbery and voluntary manslaughter are
5 most serious offenses subject to the two strike rule. He
6 understands the ramifications of that, doesn't he?

7 MR. LAWSON: He does, Your Honor.

8 THE COURT: He also understands that both of
9 these offenses are subject to the 85 percent rule, which
10 for all practical purposes means that he'll serve this
11 sentence day for day. He understands that?

12 MR. LAWSON: He does, Your Honor.

13 THE COURT: All right. Let's place Mr. Jones
14 under oath if we could.

15 THE CLERK: Please raise your right hand. Do
16 you swear to tell the truth, the whole truth, and nothing
17 but the truth so help you God?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Mr. Jones, are you under the
20 influence of any drugs or alcohol here today?

21 THE DEFENDANT: No, sir.

22 THE COURT: You experience any kind of physical
23 or mental problem that would prevent you from
24 understanding what's going on here today?

25 THE DEFENDANT: No, sir.

1 THE COURT: I want you to pay very close
2 attention as Mr. McEachin summarize the facts that bring
3 us here today.

4 MR. MCEACHIN: Thank you, Your Honor. This
5 incident -- actually both of these charges stem from the
6 same set of circumstances and that incident occurred back
7 on April the 12th 2008, on Eugene Street, which is in
8 Florence County. On that particular morning around
9 3:00 a.m. Ronald Powell, an individual from the
10 Coward-Scranton area of the county, was traveling down
11 Eugene Street, Your Honor. In speaking to witnesses and
12 speaking to the folks that would testify in trial against
13 Mr. Jones, it appeared that Mr. Powell was attempting to
14 purchase some drugs in that area and that's why he was
15 there, Your Honor.

16 He approached the corner where the defendant
17 along with some other individuals were standing and pulled
18 his car over. At that time, the defendant walked up to
19 his vehicle. I believe that Mr. Powell ask him if he
20 could purchase some drugs. The defendant had none. He
21 then told him to give it up and give him what he had.
22 Mr. Powell didn't have anything, he didn't give anything
23 up and then he was then shot by the defendant. It was a
24 single shot, Your Honor. It pass through the victim's
25 left arm into his abdomen severing the heart, Your Honor,

1 and that's why he died. He died short ways -- he actually
2 drove away from the scene about a 100 yards and died a
3 short ways later.

4 Your Honor, the case was investigated by
5 Investigator Hanna and Investigator Graham at the time of
6 the Florence County Sheriff's Office. I ask if they have
7 anything to add to the facts that I recited, if they do.
8 Also, Your Honor, there numerous victims -- I mean,
9 numerous members of the victim's family here. I ask that
10 if any of them would like to speak that you allow them to.
11 State your name record.

12 THE COURT: Mr. Hanna, is there anything you
13 like to add to the factual situation?

14 MR. HANNA: No, sir, I think the attorney has
15 covered it very well and thank you, sir.

16 THE COURT: Mr. Graham, anything you like to
17 add?

18 MR. GRAHAM: No, sir, everything was well
19 covered.

20 THE COURT: Very good. We're going to speak to
21 the victims here in a moment. But before we do that,
22 Mr. Jones, you've heard those facts are they true and
23 accurate?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Are you in fact guilty of voluntary

1 manslaughter?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Are you in fact guilty of attempted
4 arm robbery?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. I'll be glad to hear
7 from the victims at this time. I know that each of y'all
8 would like to speak and you certainly welcome to. Anybody
9 who would like to speak can speak. It's not necessary
10 that you do so, but those of you who would like to, I like
11 for you to stand and state your name for the record. Yes,
12 ma'am, your full name.

13 JANET POLE: My name is Janet Pole.

14 THE COURT: Yes, ma'am, I'll be glad to hear
15 anything that you got to say. I'm sorry for the situation
16 that bring us here today. I'm just gone ask that you
17 direct your comments directly to me, I'll be glad to hear
18 anything you got to say.

19 JANET POLE: Your Honor, I think you should give
20 him all that you can. I know where he was at, but that
21 still gives nobody take a reason -- the reason to take a
22 gun and just take somebody's life regardless of where you
23 are at. He took the most important thing when you get --
24 lose one of your children that you can ever lose. He took
25 a brother from my two daughters, that nothing is never the

1 same, never the same when we are together.

2 THE COURT: I understand. Thank you for being
3 here.

4 MRS. MEETZE: That's all from the family, Your
5 Honor.

6 THE COURT: Thank you. All right. Mr. Jones,
7 you standing before me pleading guilty, but you don't have
8 to plead guilty to anything. You could exercise your
9 right to a jury trial. In that process, the jury would
10 determine whether or not the State could actually prove
11 you guilty beyond a reasonable doubt. I will charge the
12 jury as a matter of law that you are presume to be
13 innocent. No one could require that you take the witness
14 stand. However, if you wanted to, you could. You could
15 subpoena witnesses on your own behalf. In addition to
16 that, you and your lawyer could cross-examine the State's
17 witnesses. You have an opportunity to eyeball them and
18 confront them as they testified against you. Do you
19 realize that by pleading guilty you giving up all these
20 rights?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Still wish to plead guilty?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Are you indeed guilty?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Plea negotiations from the State I
2 understand this a negotiated 15 year concurrent?

3 MR. MCEACHIN: That's correct, Your Honor.

4 THE COURT: Is that your understanding, Mr.
5 McEachin?

6 MR. MCEACHIN: After speaking with the victim's
7 family, yes, Your Honor, that is the State's
8 recommendation.

9 THE COURT: And is that your understanding,
10 Mr. Floyd?

11 MR. FLOYD: It is, Your Honor.

12 THE COURT: Is that your understanding,
13 Mr. Jones?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Is that your understanding,
16 Mr. Lawson?

17 MR. LAWSON: Yes, Your Honor.

18 THE COURT: Mr. Jones, are you satisfied with
19 your lawyers?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And you had adequate time to talk
22 with them about this case and your defenses?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Have you understood all
25 your conversations with them?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you need any additional time to
3 confer with them?

4 THE DEFENDANT: No, sir.

5 THE COURT: You understand all the collateral
6 consequences of this plea? You understand that, don't
7 you?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Has anyone promised you
10 anything, threatened you, pressured you or mistreated you
11 in anyway shape or form in an effort to get you to plead
12 guilty here today?

13 THE DEFENDANT: No, sir.

14 THE COURT: It's been your decision to plead
15 guilty?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Are you indeed guilty?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You understood all my questions?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Your answers been truthful?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You understood that you have ten
24 days to appeal any decision I might render here today?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Based on your testimony,
2 I find there's a substantial factual basis for your plea,
3 that your decision was freely and voluntary entered into,
4 knowingly and intelligently with consent of competent
5 counsel with whom you say you are satisfied. I will
6 accept your plea. And be glad to hear from you and your
7 lawyers would like to speak on your behalf.

8 Mr. Lawson.

9 MR. LAWSON: May it please the Court, Your
10 Honor. Chris is 19 years old, a young man, has the
11 opportunity to take and turn this into a positive thing
12 and have a life when he comes out of prison. He will
13 still be relatively young when he gets out if, Your Honor,
14 accept the offer.

15 Your Honor, there was evidence in the case just
16 to advise, Your Honor, in relation to voluntary
17 manslaughter as oppose to murder, that there was some form
18 of a struggle at the time the gun was drawn and at that
19 point the gun went off. And some people actually said
20 they thought it was an accident as far as the actual
21 shooting was concern.

22 As you heard yesterday, when Mr. Jones was --
23 when Chris was initially interviewed, he said nothing, but
24 then at immediately upon his arrest he gave a statement in
25 which he said he was there. He said they were going to

1 rob the gentleman. And he said, of course, one of the
2 co-defendants had actually shot. But as we went through
3 the first trial, it was interesting he told the detective
4 everybody that was there in his interview and it turns out
5 that everyone was there and everybody that he said was
6 there actually testified in the case. So everything that
7 he said pretty much was true. And, Your Honor, he just
8 like I said he's been in jail since the day of his arrest,
9 which was April the 25th of 2008. We would ask for credit
10 for those days, Your Honor. He's a young man. And I
11 believe he's been cooperative, Your Honor. It's just been
12 a long situation for everybody involved. I'm sure the
13 victims are -- will be in a better position having been
14 able to put this behind them instead of going through
15 another trial.

16 THE COURT: All right, Mr. Floyd.

17 MR. FLOYD: Your Honor, I don't have anything to
18 add. Thank you very much.

19 THE COURT: Mr. Jones, be happy to hear anything
20 that you like to say if you like to say something, it is
21 not necessary that you speak, but if you do, I like you to
22 make your comments directly to the Court.

23 THE DEFENDANT: I don't like to speak, sir.

24 THE COURT: Okay, very good. 370 days? How
25 many?

1 MR. MCEACHIN: 725.

2 THE COURT: Mr. Jones, on indictment
3 2008-GS-21-1242 voluntary manslaughter, the sentence of
4 the Court is that you be committed to the state department
5 of corrections for a period of 15 years. This sentence to
6 run concurrent in all respects with the other sentences
7 rendered here today, credit for 725 days.

8 With regard indictment 2010-GS-21-0507 attempted
9 arm robbery, the sentence of the Court is that you be
10 committed to the state department of corrections for a
11 period of 15 years, given credit for 725 days. Good luck
12 to you. Thank y'all for being here.

13 END OF REQUESTED TRANSCRIPT

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FORM 5

STATE OF SOUTH CAROLINA)
)
County of Florence)

IN THE COURT OF COMMON PLEAS

2010 - CP 21 - 2288

Christopher Devon Jones 340411
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)
)
)
)
)

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
2010 AUG - 6 PM 12:31
COMM. REL. & GS. CLERK
FLORENCE COUNTY

INSTRUCTIONS B READ CAREFULLY

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

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

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

1. Place of detention Lee Correctional Institution
990 wisacky highway Bladenville, S.C. 29010
2. Name and location of Court which imposed sentence Florence County
General Session
3. Name(s) of co-defendant(s) (if any) Champelle Burgess
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 08-1242 / Murder

CERTIFIED A TRUE COPY

Annal Red-Spearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

(b) 2010-GS-21-0507 / Attempted robbery
(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:
(a) 15 years - 4-20-10 → 15 years - 4-20-10
(b) _____
(c) _____

6. Check whether a finding of guilty was made:
(a) after a plea of guilty _____
(b) after a plea of not guilty _____
(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO

8. If you answered Ayes@ to (7), list:
(a) the name of each Court to which you appealed:
i. _____
ii. N/A
iii. _____
(b) the result in each such Court to which you appealed:
i. _____
ii. N/A
iii. _____
(c) the date of each such result:
i. _____
ii. N/A
iii. _____
(d) if known, citations of any written opinion or orders entered pursuant to such results:
i. _____
ii. N/A
iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:
(a) Counsel failed to advised.

- (b) _____
- (c) _____

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

- (a) ineffective Assistance counsel / martinez v. stat.
- (b) involuntary guilty plea / matthew v. state
- (c) Due process / Prosicutor misconduct. / frettv. stat

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

- (a) counsel failed to investigate the case.
- (b) Counsel failed to challenge case
- (c) Prosicutor handle case unlawful.

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

- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? no

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

- (a) the specific nature thereof:
 - i. _____
 - ii. N/A
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. N/A
 - iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. N/A

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. N/A

iii. _____

iv. _____

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

i. _____

ii. N/A

iii. _____

iv. _____

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

no

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

(a) which grounds have been presented:

i. _____

ii. N/A

iii. _____

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

i. _____

ii. N/A

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) N/A
- (c) _____

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (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? no

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

- (a) the name and address of each attorney who represented you:
 - i. Jack Lawson
180 north Trby. St
 - ii. Florence, S.C
29501
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. trial
Plea and sentencing.
 - ii. _____
 - iii. _____

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

Drop attempted arm robbery and murder.
to the court in Lee County, Georgia.
at the time of the trial.

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

no

Revised 3/2003

STATE OF SOUTH CAROLINA)
County of Lee)

VERIFICATION

I, Christopher Devon Jones, 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.

Christopher Devon Jones

SWORN to and subscribed before me this 14
day of July 2010.
Sherry Ann (L.S.)
Notary Public

My Commission Expires: 5-16-11

FILED
2010 AUG -6 PM 12:31
CORINNE REEL-SPEARIN
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

CERTIFIED A TRUE COPY
Corinne Reel-Spearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

22

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

I, Christopher Devon Jones, 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.

Christopher Devon Jones
Applicant

SWORN or affirmed to and subscribed before me this

14 day of July, 2010.

Christina Shearin
Notary Public

My Commission Expires: 5-16-12

FILED
2010 AUG - 6 PM 12:31
CLERK OF COURT C.P. & G.S.
SHEARIN
FLORENCE COUNTY, S.C.

CERTIFIED A TRUE COPY
Christina Shearin
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	C.A. NO. 10-CP-21-2288
COUNTY OF FLORENCE)	
)	
Christopher Devon Jones,)	
S.C.D.C. No. 340411,)	
)	
Applicant,)	RETURN
)	
VS.)	
)	
State of South Carolina,)	
)	
Respondent.)	
<hr/>		

In response to the post-conviction relief application filed August 6, 2010, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. Applicant was indicted at the September 2008 term of the Florence County Grand Jury for murder. Jack Lawson, Esquire, represented the Applicant. On April 20, 2010, Applicant pled guilty to voluntary manslaughter. Applicant was sentenced by the Honorable Michael Nettles to fifteen years imprisonment. Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein by reference are the records of the Florence County Clerk of Court regarding the subject convictions and Applicant's records from the South Carolina Department of Corrections. The guilty plea transcript will be forwarded upon receipt.

Respondent reserves the right to amend its return upon the receipt of further information or materials.

II.

In his current application, Applicant alleges that he is being held in custody unlawfully because he received ineffective assistance of counsel, his plea was involuntary, and because of prosecutorial misconduct.

III.

In a PCR proceeding, the applicant bears the burden of establishing that he is entitled to relief. Caprood v. State, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000). First, a PCR applicant must show that his counsel's performance was deficient such that it falls below an objective standard of reasonableness. Strickland v. Washington, 466 U.S. 668, 687, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 693 (1984); Alexander v. State, 303 S.C. 539, 541, 402 S.E.2d 484, 485 (1991). Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry v. State, 300 S.C. 115 at 117, 386 S.E.2d 624 at 625 (1989), *citing Strickland*.

Second, an applicant must show there is a reasonable probability, but for counsel's unprofessional errors, the result of the proceeding would have been different. Strickland, 466 U.S. at 687, 104 S.Ct. at 2064, 80 L.Ed.2d at 693; Alexander, 303 S.C. at 541-42, 402 S.E.2d at 485. The Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, *Id.* Applicant must overcome this presumption in order to receive relief. Cherry, *Id.*

Where there has been a guilty plea, the applicant must prove prejudice by showing that, but for counsel's errors, there is a reasonable probability he would not have pleaded guilty and instead would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59, 106 S.Ct. 366,

370, 88 L.Ed.2d 203, 210 (1985); Jordan v. State, 297 S.C. 52, 54, 374 S.E.2d 683, 684 (1988).

In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984).

Respondent submits that 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, Respondent requests an evidentiary hearing to fully resolve this issue. *See* Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant alleges that he did not plead guilty freely and voluntarily. The State submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The State submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993).

Given Applicant's burden of proof and the analysis to be applied to this claim, Respondent submits that Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such.

IV.

Respondent denies Applicant's allegation of prosecutorial misconduct and demands strict proof thereof. Applicant provides no factual allegations to support this claim, or to explain why any alleged misconduct by the prosecution entitles him to relief. Accordingly, Respondent moves to dismiss this claim with prejudice.

V.

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

VI.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code §17-27-10 et seq; SCRCF 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCF Rule 11. Filings by inmates will not be considered at the PCR hearing.

VII.

WHEREFORE, having made Return, the Respondent requests that this Court dismiss this Application with prejudice.

Respectfully submitted,

HENRY DARGAN McMASTER

Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

DAVID SPENCER
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

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November 29, 2010.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)
)
)
)
 CHRISTOPHER DEVON JONES, #340411))
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

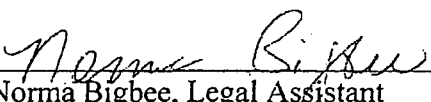
2010-CP-21-2288

AFFIDAVIT OF SERVICE BY MAIL

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

Charles T. Brooks, Esquire
P.O. Box 3512
Sumter, SC 29151

DATED this 29th day of November, 2010.



 Norma Bigbee, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
 COUNTY OF FLORENCE) GENERAL SESSIONS COURT

CHRISTOPHER D. JONES)
 340411)

PETITIONER,)

v.)

TRANSCRIPT OF RECORD
 10-CP-21-02288

STATE OF SOUTH CAROLINA,)

RESPONDENT.)

January 31, 2012
 Florence, South Carolina

BEFORE :

THE HONORABLE WILLIAM H. SEALS, JUDGE

APPEARANCES:

CHARLES T. BROOKS, III, ESQ.
 Attorney for the Petitioner

DAVID SPENCER, ESQ.
 Attorney for the Respondent

FRANCES BAKIS-RAY, RPR
 Circuit Court Reporter

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(There were no exhibits submitted.)

1 MR. SPENCER: Your Honor, this is
2 Christopher Jones versus South Carolina. This is
3 2010-CP-21-288. Mr. Jones is represented here today
4 by Mr. Charles Brooks. He was represented at his
5 guilty plea by Jack Lawson and Scott Floyd.
6 Hopefully Scott is in the next room. And Jack
7 Lawson, of course, unfortunately, is now deceased.

8 He was charged with murder. Pursuant to
9 negotiations it was reduced to voluntary
10 manslaughter, and he received a 15 year sentence on
11 that charge. That guilty plea occurred on
12 April 20th of 2010. At some prior point, which my
13 records don't reflect, Mr. Jones actually had a
14 trial; it came back as a mistrial before Judge
15 Russo. Your Honor, as I understand from Mr. Brooks,
16 Mr. Jones is moving for a continuance which I would
17 expect to oppose, but at this time I'd let
18 Mr. Brooks make his motion.

19 THE COURT: All right. Mr. Brooks.

20 MR. BROOKS: If it please the Court,
21 Judge.

22 THE COURT: First of all, does your client
23 realize that if he wins his post-conviction
24 application he may be facing murder again and
25 possibly life?

1 THE PETITIONER: Yes, sir.

2 THE COURT: And I have seen that happen in
3 this courtroom by the way.

4 MR. BROOKS: I explained the danger of
5 that to him, and he says he still wants to go
6 forward with his PCR.

7 THE COURT: I'll be glad to hear from you.

8 MR. BROOKS: At this time, Judge, he
9 indicates he would want the Court to grant him a
10 continuance. He explained to me that he's in the
11 process of hiring private counsel to represent him
12 on this matter, and I told him that was fine, we
13 will present that motion to the Court.

14 THE COURT: When did he file his
15 post-conviction relief application?

16 MR. SPENCER: August of 2010.

17 THE COURT: I'm gonna deny that motion.
18 I'm ready to proceed any time you are.

19 THE DEFENDANT: Can I just say something,
20 sir?

21 THE COURT: Talk to your lawyer and let
22 him talk to me if you would.

23 (Attorney Brooks confers with the petitioner.)

24 THE PETITIONER: Excuse me, sir.

25 THE COURT: Yes.

1 THE PETITIONER: I got a motion for a
2 continuance and a motion for relief of counsel. The
3 reason why I wanted to do that, sir, is because I
4 ain't -- I never had a chance to really talk to my
5 lawyer about this case and I'm in the process of
6 hiring counsel. And he didn't even try to -- even
7 if you bring back a month later I'll have my own
8 lawyer, sir. I just want ---

9 THE COURT: It's been over a year. I
10 think it's time to proceed.

11 THE PETITIONER: I ain't had no -- I ain't
12 never talked to this lawyer concerning it. They had
13 a continuance, so I never had a continuance to even
14 consider it on my own, ---

15 THE COURT: But we've been here all
16 morning.

17 THE PETITIONER: ---on my own.

18 THE COURT: Mr. Brooks, have you talked to
19 him this morning?

20 MR. BROOKS: I did talk to him in the
21 back.

22 THE COURT: In jail?

23 MR. BROOKS: I did, Judge.

24 THE COURT: You ready to proceed?

25 MR. BROOKS: Judge, I do hundreds of PCRs

PW - C. JONES - DIRECT

1 so you're familiar with me, sir.

2 THE COURT: Very well qualified; you're a
3 good lawyer. I think it's time to move forward with
4 this hearing. Proceed. Call your first witness,
5 Mr. Brooks.

6 MR. BROOKS: We call Mr. Jones to the
7 stand.

8 MR. SPENCER: Your Honor, if I may just
9 step over there just to get Mr. Floyd in here.

10 THE COURT: Sure.

11 THE CLERK OF COURT: Please place your
12 left hand on the Bible and raise your right hand as
13 much as possible.

14 WHEREUPON,

15 **CHRISTOPHER JONES,**

16 having been duly sworn by the Clerk of Court,

17 testified as follows:

18 THE CLERK OF COURT: Please be seated,
19 then state your name for the record.

20 THE WITNESS: Christopher Jones.

21 THE COURT: Go ahead, Mr. Brooks.

22 **DIRECT EXAMINATION**

23 BY MR. BROOKS:

24 Q Mr. Jones, you had Mr. Floyd as one of your
25 lawyers?

PW - C. JONES - DIRECT

1 A Yes, sir.

2 Q Okay. Now, and I'm gonna repeat this, I want to
3 make sure you understand what you're doing. You
4 understand that if Judge Seals does grant your PCR
5 you can go back and face murder?

6 A Yes, sir.

7 Q Okay. And right now you've got, what, nine years
8 left to do?

9 A Yes, sir.

10 Q All right. And you still want to go forward with
11 your PCR?

12 A Yes, sir.

13 Q Now you pled guilty to these charges, is that
14 correct, for voluntary manslaughter?

15 A Yes, sir.

16 Q And part of your assertion is that this was not
17 freely given; is that correct?

18 A Yes, sir.

19 Q Explain to the Court why did you end up pleading
20 guilty?

21 A The reason why I pled guilty 'cause when I was at
22 my trial, when I got to my trial first I was
23 originally charged with murder. When I got to my
24 trial they had additional indictment for attempted
25 armed robbery. So I asked my lawyer, which is Jack

PW - C. JONES - DIRECT

1 Lawson, where these charges come from, like why
2 didn't I get issue a warrant, indictment, or been to
3 a bond hearing or preliminary hearing concerning the
4 charge, why didn't I get any notice. The lawyer
5 told me, he said, hold up and wait. So when it came
6 to motion hearing I put in a motion to relieve
7 counsel; it was denied.

8 The next day I went to -- the next day I
9 came in the next day for my trial. I had stood up
10 and I told Judge Nettles that I wanted to issue a
11 warrant indictment any notice for the charge. I
12 been to the bond hearing for a second charge which
13 is attempted armed robbery. And he told -- and he
14 asked the lawyer did my lawyer give me a copy of the
15 indictment so my lawyer was like naw, he just got it
16 two weeks prior to that. So he asked the lawyer why
17 he didn't he get me a copy of the indictment so then
18 that's when they had to recess, and that's when they
19 came to me about -- Scott Floyd came to me, asked me
20 why I be considering of taking the deal that they
21 originally had from which was ten years. So I told
22 them, yeah, because my lawyer is not prepared and I
23 had asked him to subpoena two witnesses which I have
24 on the paper which I wrote the Clerk of Court and
25 was stamped notarized. But I asked you too, you

PW - C. JONES - DIRECT

1 too, which is on the paper to subpoena the two
2 witnesses but, and they would have stated they was
3 willing to come to my trial and on my behalf but
4 they was never subpoenaed so ---

5 MR. SPENCER: Your Honor, who is this? I
6 didn't catch who this is a conversation between.

7 MR. BROOKS: He was talking about me in
8 terms of these witnesses.

9 MR. SPENCER: Oh, okay.

10 MR. BROOKS: And he told his lawyer about
11 these witnesses, and he's saying he was telling me
12 about these witnesses, why these witnesses.

13 MR. SPENCER: Okay, yeah, that's fine.

14 BY MR. BROOKS:

15 Q Is that what you're saying, Mr. Jones?

16 A Yeah. I asked for the witnesses. I asked you,
17 which is on the paper which is notarized. And I had
18 sent a copy to the Clerk of Court to subpoena them
19 witnesses because the witnesses would have stated at
20 my, during my trial which my second trial which is
21 for the attempted armed robbery and the murder that
22 they would have came and testified on my behalf.
23 But they was never contacted and testified on my
24 behalf so that was a lot of conflict with my case
25 too. I already been through one trial so it's not

PW - C. JONES - DIRECT

1 like in my second trial now me, like, I think the
2 deal ---

3 Q How did that first trial end, in a hung jury?

4 A Yes, sir.

5 Q Okay. So you're saying you told Mr. Lawson about
6 ---

7 A Yeah.

8 Q ---these three witnesses?

9 A Two witnesses.

10 Q Two witnesses?

11 A Yes, sir.

12 Q Between those trials?

13 A Yes, sir.

14 Q And you started a second trial?

15 A Yes, sir.

16 Q And in the middle of the second trial that's when
17 you decided to take the deal and plead guilty?

18 A Yes, sir. Reason why I did that because I didn't
19 have no notice for the second charge. And I wasn't
20 prepared; I wasn't none of that. And I tried to
21 find Mr. Lawson, get Mr. Lawson off my case, that
22 was denied. So I was made to keep Mr. Lawson. So
23 it's not like I didn't, I was happy with my counsel
24 because it's on record stating that I tried to fire
25 Mr. Lawson, get Mr. Lawson off my case. And I also

PW - C. JONES - DIRECT

1 asked Mr. Lawson to subpoena two witnesses which is,
2 which is I have a right to a fair trial and he did
3 not contact them. And if you would have, which I
4 wrote you, would have had subpoenaed witnesses and
5 they would have been here they would have stated
6 they was never contacted to come to my trial.

7 Q So you're saying by virtue of this that your plea
8 was coerced?

9 A Yes, sir.

10 Q And this was not a voluntarily plea?

11 A No, sir.

12 Q And that's why you're asking Judge Seals here
13 today to set aside your guilty plea and give you a
14 new trial; is that correct?

15 A Yes, sir.

16 Q Is there any other reason why you want to tell
17 the judge about your plea and why it should also be
18 set aside other than what you've discussed?

19 A Yes, sir.

20 Q What other reason?

21 A Well, basically I mean, like the same issues I
22 was stating. Your Honor, basically the way I see it
23 like from my prospective, okay, if I like going to
24 trial I felt like my lawyer Jack Lawson should have
25 had at least had a motion discovery pertaining to

PW - C. JONES - CROSS

1 robbery. I should have at least had a warrant to
2 look over the warrant or look over indictment before
3 going into trial. I get to trial and that's all on
4 the record. It's on my trial transcript stating
5 that I ain't had no notice for the charge, and my
6 lawyer Jack Lawson did not deny that. It's on the
7 state record. And Judge Nettles asked him did he
8 give me a copy of the indictment, and the lawyer
9 said naw, he just got it, and then that's when he
10 gave it to me at trial. But okay, if I get it at
11 trial then I wasn't conscious or aware that this
12 charge exist before then so how could we have the
13 time to prepare or subpoena and find any witness if
14 all this went down right during the trial.

15 Q Is there anything else you want to tell the Court
16 that we haven't covered?

17 A No, sir.

18 Q All right. Answer any questions that Mr. Spencer
19 has.

20 CROSS-EXAMINATION

21 BY MR. SPENCER:

22 Q All right, Mr. Jones, I just want to kind of
23 clarify, see if I can understand what you're saying.
24 You're saying you were originally charged with
25 murder; is that correct?

PW - C. JONES - CROSS

1 A Yes, sir.

2 Q All right. And you went to trial on murder,
3 right?

4 A Yes, sir.

5 Q And that ended up with a hung jury?

6 A Yes, sir.

7 Q Okay. And then you're saying there is an
8 additional indictment?

9 A Yes, sir.

10 Q Was that before that trial or after that trial?

11 A That was after the first trial.

12 Q What was that indictment for?

13 A Attempted armed robbery.

14 Q Okay. And was that attempted armed robbery for
15 the same incident as the murder charge?

16 A Yes, sir.

17 Q Okay. So it's the same, basically the same facts
18 as with the murder charge; is that correct?

19 A Yeah, it's the same incident.

20 Q Okay. You were facing a life imprisonment on the
21 murder charge, right?

22 A Yes, sir.

23 Q Okay. And attempted armed robbery you were
24 facing an additional 20 years?

25 A Yes, sir.

PW - C. JONES - CROSS

1 Q Okay. And of course when you pled guilty you
2 understood you had a right to trial, right?

3 A Yes, sir.

4 Q Because you've been through one already, right?

5 A Yes, sir.

6 Q Then tell me how were you hurt by this lack of
7 notice that the State was gonna try you on attempted
8 armed robbery along with murder?

9 A I didn't have time to prepare for a defense. I
10 didn't have time to subpoena my witnesses which I
11 just mentioned, two witnesses.

12 Q Okay. Are those two witnesses here today?

13 A Naw, 'cause I asked him to subpoena them but
14 they're not here.

15 Q Okay.

16 A And Mr. Spencer, —

17 Q You're — please, if I may. One thing I wanted
18 to ask you, concerning the facts of this case do you
19 recall the solicitor advising Judge Nettles of the
20 basic facts behind this case?

21 A Oh, not as I remember.

22 Q You don't remember that from your guilty plea
23 transcript?

24 A Oh, you're talking about the solicitor?

25 Q Yeah.

PW - C. JONES - CROSS

1 A Talking about explaining? Oh, yeah.

2 Q And he explained what the facts were behind this
3 case to Judge Nettles, right?

4 A Yes, sir.

5 Q And do you remember Judge Nettles asking you if
6 you agreed with the facts?

7 A Yes, sir.

8 Q And you told him you did, right?

9 A Yes, sir. If I can say something.

10 Q And -- well, you can -- I'm sure your attorney
11 will give you a chance to add anything you want to
12 my questions. And feel free to explain your answers
13 too.

14 A Yeah, see ---

15 Q Basically I wanted to ask you, you were advised,
16 you were asked how you wanted to plead guilty and
17 you told Judge Nettles you wanted to plead guilty,
18 right?

19 A Yes, sir.

20 Q You didn't tell Judge Nettles you want a trial?

21 A I was at my -- no, you're right. But I was at my
22 trial. Only reason why I pled guilty is because my
23 lawyer wasn't prepared. I asked my lawyer to make
24 the trial fair I had the right to subpoena
25 witnesses. My lawyer didn't get in contact with my

PW - C. JONES - CROSS

1 witnesses. If my witnesses would have been here
2 today if he had subpoenaed them, both of them would
3 have stated they wasn't contacted so basically that
4 ---

5 Q What do you mean they weren't con— that they
6 weren't contacted? In advance of the trial?

7 A Yes, sir.

8 Q Okay, I see what you're saying.

9 A Yeah, 'cause I just found out that the charge
10 exist when I got to the trial.

11 Q What would they testify to concerning the
12 attempted armed robbery that's different from what
13 they would have testified as to the murder trial
14 charges?

15 A One, I had one witness was my co-defendant.

16 Q Okay.

17 A And he stated, the way he said it in the first
18 trial he stated to me that some of my relatives and
19 others that the story he told at the first trial was
20 a lie, that he told that story to get home to get
21 free so. And that prior to my trial, my first
22 trial, he didn't never have a statement written or
23 typed up. He never made a statement when he first
24 got locked up.

25 Q Okay.

PW - C. JONES - CROSS

- 1 A So what he said on the stand and take —
2 basically he just freely, made a free statement.
3 It's not like he had — I had any copy of the
4 evidence that from him before he took the stand. So
5 he basically was going to come here today, state
6 that what he said at the first trial was all a lie.
7 And the other witness was the other guy on my behalf
8 as far as like what happened that night. That's
9 what they would have stated if they would have been
10 here today if my lawyer would have subpoenaed them.
- 11 Q Well, this is the thing, Mr. Jones, you told
12 Judge Nettles at the guilty plea hearing that you
13 agreed with the facts, the facts that would make you
14 guilty of attempted armed robbery and murder. Why
15 didn't you tell — since you told them you agree
16 with the facts, basically what you're saying is you
17 wanted Jack Lawson to bring a witness in that would
18 make up a false alibi?
- 19 A No, not a false alibi, but a true alibi.
- 20 Q A true alibi? You weren't there? You didn't do
21 the killing?
- 22 A No, sir.
- 23 Q Why didn't you ---
- 24 A Basically I ---
- 25 Q ---tell Judge Nettles that?

PW - C. JONES - CROSS

1 A Can I speak? Basically I'm getting what you're
2 saying.

3 Q You can answer my question ---

4 A Yes, sir.

5 Q ---and you can just explain. You didn't tell
6 Judge Nettles that you weren't there. You agreed
7 with the facts, correct?

8 A Yeah, correct.

9 Q So are you saying you were lying to Judge Nettles
10 that day?

11 A Basically, yes, sir.

12 Q Okay. You were lying to go to prison, right?

13 A No, I wasn't lying to go to prison, but I felt
14 like once I already tried to relieve counsel, get
15 him from my case, and after I stated the facts that
16 he didn't subpoena my witnesses and I stated facts
17 that I didn't have notice before the court which is
18 violated my constitutional rights by me not --
19 'cause I have a right to notice, I have a right to
20 subpoena witnesses.

21 Q When did you tell Judge Nettles about ---

22 A Oh, I told him all that.

23 Q ---this lack of notice?

24 A That's on record. All that's on record.

25 Q It's on record?

PW - C. JONES - CROSS

1 A It's not here, but it's on my trial transcript.
2 And I had asked him to obtain a copy of it so I
3 could have bring them here today and show that in
4 black and white. That's all that in black and white
5 on my trial transcript, but he never got a copy of
6 that. The letter is over there notarized.

7 Q Do you recall Judge Nettles asking you if you
8 were satisfied with your attorney?

9 A Yes, sir.

10 Q And then you told him you were, right?

11 A Yes, sir. But I tried to fire my attorney and
12 Judge Nettles made me keep my attorney so I had no
13 choice but to keep my attorney.

14 Q Okay. But you didn't tell Judge Nettles that you
15 during this guilty plea hearing that you wanted Jack
16 Lawson to subpoena two witnesses for you, did you?

17 A No, sir, but I told him during — on my other, on
18 my trial transcript that I didn't have a chance,
19 time to subpoena witnesses. All that's on my trial
20 transcript. It's not on my plea transcript where
21 you have in your hand, but it's on my trial
22 transcript.

23 Q Do you recall Judge Nettles asking you if your
24 answers were truthful?

25 A Not off head, but I know it shown in there

PW - C. JONES - CROSS

1 because it's a plea hearing.

2 Q It's a plea hearing. And Your Honor, that's on
3 page 11 of the transcript. And I'm going to hand
4 that transcript to you. You can look at lines 21
5 and 22 to see if that helps remind you.

6 A Yes, sir.

7 Q You told Judge Nettles that your answers were
8 truthful, right?

9 A Yes, sir.

10 Q And what you're telling Judge Seals today is
11 actually you were lying at the guilty plea?

12 A Yes, sir, 'cause I was made to keep my lawyer. I
13 tried to relieve my lawyer. The same questions you
14 asked me is basically was I had with counsel. I
15 tried to fire the lawyer and I had reasons to fire
16 the lawyer but they made me keep the lawyer so I had
17 no choice but to keep counsel.

18 Q You pled guilty to avoid a murder conviction,
19 right?

20 A No, I pled guilty because I was made to keep my
21 lawyer.

22 Q You pled guilty because you were made to keep
23 your lawyer?

24 A Yes, sir.

25 Q And it doesn't say that in this transcript, does

PW - C. JONES - CROSS

1 it?

2 A No, sir.

3 Q And by pleading guilty you went from murder which
4 was 30 to life imprisonment, and you went from 30 to
5 life imprisonment and got a conviction for voluntary
6 manslaughter and only got 15 years, right?

7 A Yes, sir.

8 Q All right. And you had actually been through a
9 trial before, right?

10 A Yes, sir.

11 Q And that trial ended in mistrial, right?

12 A Yes, sir.

13 Q So you knew you had a chance to have this go
14 through the jury again, and you knew you had a
15 chance for another trial, and you decided to plead
16 guilty instead, right?

17 A But I never knew nothing about —

18 Q Just answer my question and you can explain.

19 A Yes, sir, but I never knew nothing about the
20 second charge which was attempted armed robbery. I
21 never knew about that. That make my whole
22 circumstances different. A murder with attempted
23 armed robbery, that's a whole nother case.

24 Q You say that's a whole nother case?

25 A Yes, sir, attempted armed robbery and murder is

PW - C. JONES - CROSS

1 two different charges.

2 Q Now this trial, the murder trial, was over the
3 murder of Mr. Powell, right?

4 A Yes, sir.

5 Q And basically what the Solicitor, his statement
6 of facts was, you approached Mr. Powell, demanded
7 him drugs and money, and he didn't give you anything
8 and then you shot him, right?

9 A No, sir.

10 Q Isn't that what the Solicitor was alleging?

11 A No, sir, not as I know of.

12 Q If you could look on page 6 of this transcript.
13 You can start reading from line 16 and finish the
14 paragraph that carries over on page 7. Read that to
15 yourself, and you can just let me know when you're
16 ready.

17 A (Complies.) You said -- you said right. You
18 said, you just said I want went to the car and told
19 him and demanded money and drugs. But right here it
20 says that Mr. Powell asked me could he purchase some
21 drugs.

22 Q Do you see here where it says, he then told them
23 to give it up and give him what he had. Mr. Powell
24 didn't have anything. He didn't give anything up,
25 then he was shot by the defendant. It was a single

PW - C. JONES - CROSS

1 shot, Your Honor. So basically ---

2 A Yeah.

3 Q ---you wanted something from Mr. Powell, he
4 didn't give it to you, and you shot him. That's
5 what that says; doesn't it?

6 A That's what that says, but you just said ---

7 Q And you agreed with those facts, right?

8 A But you just said I went to the car, asked him to
9 give, for some money and drugs.

10 Q Would you agree with these facts, what I just
11 read to you?

12 A No, sir.

13 Q You don't agree you approached Mr. Powell?

14 A No, sir.

15 Q And when he didn't give you what he wanted ---
16 what you wanted you shot him?

17 A No, sir.

18 Q You don't agree with that?

19 A No, sir.

20 Q You told Judge Nettles you agree with that
21 though, right?

22 A Yeah, I told him that.

23 Q Thank you. I have no further questions.

24 THE COURT: Mr. Brooks.

25 MR. BROOKS: No other questions, Judge.

PW - S. FLOYD - DIRECT

1 THE COURT: You may step down.

2 Call your next witness.

3 MR. BROOKS: Judge, that's the Applicant's
4 case.

5 THE COURT: Mr. Spencer.

6 MR. SPENCER: I would call Mr. Floyd to
7 the stand.

8 WHEREUPON,

9 **SCOTT FLOYD,**
10 having been duly sworn by the Clerk of Court,
11 testified as follows:

12 THE CLERK OF COURT: Please be seated,
13 then state your name for the record.

14 THE WITNESS: Scott Floyd.

15 **DIRECT EXAMINATION**

16 BY MR. SPENCER:

17 Q Mr. Floyd, now you actually weren't the lead
18 attorney on this case; is that correct?

19 A That's correct, Jack Lawson was.

20 Q And Jack Lawson unfortunately is deceased?

21 A He is.

22 Q Were you present for the first trial?

23 A Yes. I sat at the defense table during the first
24 trial. I wasn't really involved too much in the
25 actual preparation of it, but I did sit with Mr.

FW - S. FLOYD - DIRECT

1 Lawson. I helped him select a jury in that case
2 because there were a number of people on the jury
3 list that I was familiar with. And I sat down with
4 him that morning and helped him pick the jury. And
5 after the jury was picked it was a trial week and
6 that was pretty much all that was going on so
7 basically I just decided to stay and I sat with him.

8 Q And let me ask you this, concerning the potential
9 witnesses that Mr. Jones had testified about, to
10 your knowledge did Mr. Jones ask Mr. Lawson to get
11 those two witnesses for trial?

12 A I didn't hear that conversation. I don't have
13 any knowledge of it.

14 Q I understand. Were you involved at all in the
15 conversation in terms of when Mr. Jones was deciding
16 to plead guilty?

17 A Yes. You know, the first trial ended in a hung
18 jury, and I didn't really know Mr. Jones until that
19 first trial. And of course, I sat there during that
20 trial and I sat beside him, and you know, during the
21 breaks and so forth we would talk and I got to know
22 him, you know, a little bit during that trial. And
23 then after we had the hung jury I did have some
24 conversations with him about what the Solicitor was
25 offering leading up to the second trial.

PW - S. FLOYD - CROSS

1 Q And to your knowledge whose decision was it to
2 plead guilty?

3 A Well, to my knowledge it was Mr. Jones' decision.

4 Q All right. And just to step back a little bit,
5 is it fair to say you got a good rapport with Mr.
6 Jones?

7 A I think so. I mean, I like Mr. Jones and he was,
8 you know, very pleasant to deal with and I think we
9 had, you know, a good rapport with each other.

10 Q All right. And you're from the same home town as
11 Mr. Jones?

12 A That's correct. We both grew up in Lake City.

13 Q I have no further questions.

14 THE COURT: All right, Mr. Brooks.

15 **CROSS-EXAMINATION**

16 BY MR. BROOKS:

17 Q Mr. Floyd, the first trial ended in a hung jury;
18 is that correct?

19 A That is correct.

20 Q And you guys actually started a second trial?

21 A Yeah, I believe we -- I can't remember how far we
22 went though. I'm -- 'cause I wasn't actually gonna
23 be trying it and I -- I was once again gonna sit
24 there with Jack, but I just don't remember what
25 stage we got to.

PW - S. FLOYD - CROSS

1 Q To your knowledge had he subpoenaed anybody?

2 A I don't remember him -- I don't remember anything
3 specifically about him subpoenaing anybody. I don't
4 know. I don't know if he did or not.

5 Q Okay. Were you aware that Mr. Jones wanted some
6 people subpoenaed?

7 A I was not present when he had that conversation
8 with Mr. Lawson, and so I can't say one way or the
9 other. I mean, I just have no recollection of that.

10 Q So basically you've just got very limited
11 knowledge about the representation?

12 A Correct. I mean, I did -- I do know that before
13 we started the second trial that they did offer him
14 I believe it was ten years at one point if he pled
15 to voluntary manslaughter, and I believe -- I want
16 to say that I personally spoke with Mr. Jones about
17 the plea offer. I mean, I did do that. I do
18 remember that. But as far as the trial itself Jack
19 was going to handle the trial, I mean.

20 Q So you wouldn't have any knowledge about whether
21 or not Mr. Jones had indicated he had subpoenaed
22 some people?

23 A No, sir, I -- if he said that in my presence I
24 just don't remember. I mean, I...

25 Q All right.

PW - S. FLOYD - REDIRECT

1 MR. BROOKS: No further questions, Judge.

2 THE COURT: Mr. Spencer.

3 **REDIRECT EXAMINATION**

4 BY MR. SPENCER:

5 Q Just briefly, do you recall Mr. Lawson call any
6 witnesses in the first trial?

7 A You know, I can't remember if he did or not.

8 Q All right. And concerning the ten year offer I
9 guess Mr. Jones decided not to take that offer at
10 that time?

11 A At that time I believe so.

12 Q And that would have been his decision?

13 A Yes, sir.

14 Q And concerning your discussions with him at the
15 time he did plead guilty did you discuss that with
16 him, the decision whether to plead guilty or go to
17 trial?

18 A Yes, sir. I believe when he actually signed the
19 plea sheet and before that when Mr. Lawson was in
20 the room and going over the plea and the
21 significance of the plea and so forth, I was present
22 in there when they were doing that and I believe I
23 stood with him during the plea I believe. I believe
24 I did.

25 Q So if the plea transcript reflects that you were

1 present that would most likely be accurate?

2 A Yes, sir.

3 Q Thank you.

4 MR. SPENCER: I have no further questions.

5 THE COURT: All right. Thank you.

6 Anything further?

7 MR. BROOKS: No other questions, Your

8 Honor.

9 THE COURT: Thank you, Mr. Floyd.

10 Call your next witness, Mr. Spencer.

11 MR. SPENCER: Well, that's right. Your

12 Honor, I have no further witness, just a short

13 argument I'd like to present.

14 THE COURT: All right, I'll be glad to

15 hear from you.

16 MR. SPENCER: Your Honor, I would submit

17 Mr. Jones has not met his burden of proof. His

18 basic allegation is that his attorney wasn't

19 prepared for trial. Of course, he'd gone through

20 trial before and Mr. Lawson managed to guide the

21 jury past -- well, he got a hung jury avoiding

22 conviction. You know, that was, you know, some

23 level of success that probably got the favorable

24 plea bargaining after the fact. Mr. Jones is

25 complaining there should have been two witnesses

1 here or that Mr. Lawson should have subpoenaed two
2 witnesses. Your Honor, quite frankly, the time to
3 complain about that was to Judge Nettles, however,
4 those two witnesses aren't here today. There's no
5 evidence of prejudice therefore. So even assuming
6 that was true, which I don't think was credible,
7 Mr. Jones has not met his burden of proof in that
8 regard.

9 Further, I think it's pretty speculative
10 that that co-defendant would recant after having
11 given a favorable statement to the police, and we
12 would certainly needed a lot of evidence of that.
13 And he agreed with the facts which, you know, I went
14 through ad nauseam during the hearing. That wasn't
15 the time to agree with facts if he really wanted a
16 trial, wanted those witnesses, and he chose not to
17 so he chose to take a very favorable plea and end up
18 with a favorable result as a consequence of
19 effective assistance of counsel I would submit. So
20 therefore, I would ask that this application be
21 denied.

22 THE COURT: All right, Mr. Brooks.

23 MR. BROOKS: May it please the Court,
24 Judge, you've had an opportunity to hear from Mr.
25 Jones; and unfortunately, the person who would have

1 been intimately more familiar with the
2 attorney/client relationship is not here. Mr. Jones
3 indicated that he wanted several witnesses. He
4 actually tried to fire Mr. Lawson, and he -- all of
5 that was when he on the record. While he did -- he
6 did acknowledge he had one trial, initially had a
7 hung jury. We intimately fam-- we would stress upon
8 the Court that Mr. Jones' plea was involuntarily
9 given. He was pressured. He was sitting at the
10 table. He did not want this attorney. He wanted
11 several witnesses his attorney obviously did not
12 subpoena; therefore, he was pressed into a situation
13 where he really didn't have a one way out and that's
14 for -- that's why he ended up pleading guilty as he
15 has testified to the Court here today. Be that as
16 it may, Judge, it is our position that this plea
17 would be involuntarily given and therefore request
18 the Court to set it aside.

19 THE COURT: Okay, thank you. I'll take it
20 under advisement today and have both of you a ruling
21 by the end of day.

22 MR. BROOKS: Thank you, sir.

23 MR. SPENCER: Thank you, Your Honor.

24 THE COURT: Thank you.
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

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

Witness my hand at Florence, South Carolina, this 5th day of July, 2012.

Janus B. Ray
FRANCES BAKIS-RAY, RPR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)
)
 Christopher Devon Jones,)
 S.C.D.C. No. 340411,)
)
 Applicant,)
)
 VS.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. NO. 10-CP-21-2288

ORDER OF DISMISSAL

FILED
 2012 APR 10 PM 12:18
 CONNIE REED SHEARIN
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

This matter is before this Court by way of an application for post-conviction relief (PCR) filed August 6, 2010. The State made its return on November 29, 2010. A hearing into the matter was convened at the Florence County Courthouse on January 31, 2012. Applicant was present and represented by Charles Brooks, III, Esquire. The State was represented by David Spencer of the South Carolina Office of the Attorney General.

Applicant testified on his own behalf. Also testifying was Scott P. Floyd, Esquire. This Court also had before it the pleadings of both parties, the transcript of Applicant's guilty plea proceeding, the Florence County Clerk of Court's records regarding the subject convictions, and Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Florence County Clerk of Court's orders of commitment. Applicant was indicted at the September 2008 term of the Florence County Grand Jury for murder. Jack Lawson, Esquire, and Scott P. Floyd, Esquire represented Applicant. On April 20, 2010, Applicant pled guilty to voluntary manslaughter.

CERTIFIED: A TRUE COPY

Connie Reed Shearin

**CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.**

Applicant was sentenced by the Honorable Michael Nettles to fifteen years imprisonment. Applicant did not appeal his conviction or sentence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (1985).

Ineffective Assistance of Counsel and Involuntary Plea

Applicant makes various allegations of ineffective assistance of counsel. The burden of proof is on the applicant in a PCR proceeding to prove the allegations in his application. Bell v. State, 321 S.C. 238, 467 S.E.2d 926 (1996); Rule 71.1(e), SCRCP.

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Judge v. State, 321 S.C. 554, 471 S.E.2d 146 (1996). In order to prove prejudice, an applicant must show that but for counsel's errors, there is a reasonable probability the result at trial would have been different. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Id. Where trial counsel articulates a valid reason for employing certain trial strategy, such conduct should not be deemed ineffective

assistance of counsel: Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1995); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). 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); Stalk v. State, 383 S.C. 559, 681 S.E.2d 592 (2009); Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea: Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing: Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

Applicant alleges his plea was not freely and voluntarily given and complains that he should have received a ten year sentence. Applicant received a negotiated fifteen year sentence for voluntary manslaughter and attempted armed robbery. At trial and the plea, Applicant was primarily represented by Jack Lawson, Esquire, who is now deceased. However, Scott Floyd was available to testify. Applicant was tried and the first trial ended in a mistrial because the jury could not reach a unanimous verdict. Applicant was offered a ten year sentence after the mistrial. Scott Floyd was present during discussions concerning the ten year offer and discussed the ten year offer with Applicant as well. Applicant ultimately rejected this offer. Later, around the time the case was going to trial again, Applicant decided to plead guilty to a negotiated fifteen year sentence. Applicant has failed to meet his burden of showing that his plea to fifteen years was involuntary or that his rejection of the ten year offer was due to any deficiency of counsel. In so reaching this

conclusion, this Court finds that Floyd's testimony is highly credible and gives it great weight. On the other hand, this Court does not find Applicant's testimony credible. This Court notes that Applicant understood his right to trial, having gone to trial to the point of mistrial due to a hung jury. This Court notes that the plea transcript indicates that Applicant agreed that he understood the negotiations to be for fifteen years imprisonment. He also indicated he understood his conversations with his attorneys, had enough time to converse with them, and were satisfied with their services. Tr. p. 10. Applicant further indicated at the guilty plea that he was not promised anything and was not threatened, pressured, or mistreated in an effort for him to plead guilty. Tr. p. 11. Further, Applicant acknowledged his guilt and concluded the colloquy by advising the plea court that his answers to the plea court's questions were truthful. Tr. p. 11.

CONCLUSION

Based on 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 advises the parties that in order to secure the appropriate appellate review, notice of appeal must be served and filed within thirty (30) days after receipt by counsel of notice of entry of this order. See Rules 203 and 243 of the South Carolina Appellate Court Rules. This Court notes that post-conviction relief counsel must advise an applicant of the right to seek appellate review of a post-conviction relief order. State v. Bray, 366 S.C. 137, 620 S.E.2d 743 (2005). Also, pursuant to Austin v. State, 305 S.C. 453, 409 S.E. 2d 395 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must

serve and file a notice of appeal on an applicant's behalf.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this day of 4-9, 2012.



William H. Seals, Jr.
Presiding Judge
12th Judicial Circuit

Mullin, South Carolina

Hanna

The State of South Carolina,

County of FLORENCE

ELC

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2008

PROS: ELC

D/O: 04-12-2008



ARREST WARRANT NO.

K245706 (1), K245707 (1).

THE STATE

vs.

CHAMPEILL TERELLE BURGESS

CHRISTOPHER DEVON JONES

ACTION OF GRAND JURY

TRUE BILL

Foreman of Grand Jury

VERDICT

Foreman of Petit Jury

Date:

Indictment for

MURDER

CERTIFIED: A TRUE COPY
Amie Reel Stearns
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

2008 SEP 12 11:00

INDICTMENT FOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

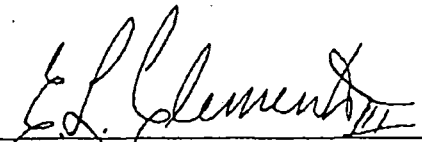
MURDER

At a Court of General Sessions, convened on AUGUST 28, 2008, the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE - MURDER

That CHAMPEILL TERELLE BURGESS AND CHRISTOPHER DEVON JONES did in FLORENCE County on or about April 12, 2008, violate Sections 16-03-0010, 0020 and 16-01-0060 of the Code of Laws of South Carolina (1976), as amended, in that they did feloniously, wilfully and with malice aforethought kill one Ronald Powell, by means of shooting him in the chest, and that the said Ronald Powell did die as a proximate result thereof.

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



 SOLICITOR

68

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Florence
STATE VS. CHRISTOPHER JONES
AKA:
Race: B Sex: M Age: 19
DOB: SS#
Address:
City, State, Zip: LAKE CITY, SC
DL#: SID#

INDICTMENT/CASE#: 08-1242
A/W#: K245707
Date of Offense: 4/25/2008
S.C. Code §: 16-03-0010; 16-03-0020
CDR Code #: 0116

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Manslaughter / Voluntary manslaughter

CONVICTED OF or PLEADS

in violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

ATTEST: MCEACHIN, FITZGERALD SC Bar# 75487
Defendant
Attorney for Defendant SC Bar# 3153

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 725 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

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

Table with columns for Recipient, *Fine, and amounts. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), § 47.12 (Public Def/Prob), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114 (BUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), § 90.7 (SCJA Surcharge), 3% to County (if paid in installments), and TOTAL.

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

Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (11/2009)

Presiding Judge
Judge Code:
Sentence Date: April 30, 2010

COUNTY OF Florence

STATE OF SOUTH CAROLINA VS. CHAMPEILL TERRELLE BURGESS

INDICTMENT/CASE#: 08-1242

AKA:

A/W#: K245706

Race: B Sex: M Age: 19

Date of Offense: 4/12/2008

DOB: SS#:

S.C. Code § : 16-03-0010; 16-03-0020

Address: LAKE CITY, SC 29560

CDR Code #: 0116

DL#: SID#:

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was TO: Accessory / Accessory after the fact to Felony A, B, C or Murder

CONVICTED OF or PLEADS

in violation of § 16-01-0055 of the S.C. Code of Laws, bearing CDR Code # 2413
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

ATTEST: CLEMENTS, III, E. L. SC Bar# 15225
Champeill Burgess Defendant
Attorney for Defendant SC Bar# 3966

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 518 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on: 08-65-21-64
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. Credit for 518 days Time Served.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
set by SCDPPPS
days/hours Public Service Employment

Table with columns for Recipient, *Fine, and various assessment codes (e.g., § 14-1-206, § 14-1-211(A)(1), etc.) with corresponding amounts.

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:
has Till Nov. 1, 2009
To pay court costs.

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

PRESIDING JUDGE
Judge Code: 12-11-411
Sentence Date: 9-24-09

Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (06/2009)