

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to Lexington County

Honorable Eugene C. Griffith, Circuit Court Judge  
\_\_\_\_\_

**RECEIVED**

JAN 17 2018

S.C. SUPREME COURT

CHRISTOPHER T. WILSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001403

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

LANELLE CANTEY DURANT  
Appellate Defender

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589  
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON  
Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General  
Rembert Dennis Building  
1000 Assembly Street, Room 519  
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

**INDEX**

INDEX ..... i

TRIAL TRANSCRIPT DATED MARCH 16-19, 2015.....1

APPLICATION FOR POST-CONVICTION RELIEF FILED JUNE 8, 2015.....507

RETURN DATED DECEMBER 15, 2016 .....516

AMENDED APPLICATION FOR POST-CONVICTION RELIEF  
DATED JANUARY 23, 2017 .....522

POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JANUARY 30, 2017 .....528

ORDER OF DISMISSAL FILED MAY 9, 2017 .....559

INDICTMENTS AND SENTENCING SHEETS .....567

1 as his disposition because obviously he testified  
2 yesterday as well as his wife. You saw the videos. You  
3 saw where he lived. You don't normally get to see where  
4 an individual lives when you're doing your sentencing but  
5 you saw that there's a lot of good that goes on in his  
6 life and I was -- You know, there's two ways you can  
7 argue this. You got a guy who's charged with drugs and  
8 then you got a guy who on his walls he's got religious  
9 paraphernalia. If I use the word paraphernalia, I don't  
10 mean it derogatory. It tells me that there is a part to  
11 his being which believes that you should do the right  
12 thing and that there is a part of his being that says  
13 that your children should do the right thing.

14 I noticed, and he probably didn't know I was going  
15 to say anything about that, but I noticed it and I wish  
16 that I had done more with my children in regards to that.  
17 But at least that side of him is there.

18 Your Honor, he's 39 years of age. He works. He  
19 does have a maintenance job which he works landscaping  
20 that he works. Unfortunately family is a two sided  
21 sword. Family is really good. Can help you through hard  
22 times. Sometimes family drags you down. You don't know  
23 who is the dragger and who is the draggee. But sometimes  
24 family can put you in bad situations also and I think by  
25 making that candid remark you know exactly what I'm

1 referring to and that is the fact that the brother was  
2 there. The brother was at least involved in one of the  
3 sales, the brother who is deceased now.

4 But I can tell you that on a personal note at least  
5 in terms of how he interacts with people, he's not a  
6 violent person. He wants to do the right thing. He's  
7 concerned about his children. Had his daughter up here  
8 yesterday and he was hugging her and trying to be nice,  
9 trying not to show that he was scared and upset. So I  
10 would ask -- Obviously he's going to catch some time. I  
11 would ask that you be as lenient as possible on this  
12 particular charge.

13 Your Honor, I have his wife who testified yesterday  
14 and she would like to address the Court, if she could.

15 THE COURT: Okay. Madam Clerk, would you swear Ms.  
16 Wilson in please or Ms. Jay.

17 Thereupon,

18 BRITTANY JAY

19 after having been first duly sworn, testified as follows,

20 THE COURT: Yes, ma'am. Be glad to hear from you.

21 MS. JAY: I would just like to address the Court and  
22 say that he is a very good father to all of his children.  
23 He has multiple children, not only with me ranging from  
24 the ages of 3 to 21 years old. He's always been  
25 there for his kids. He helps in any way that he can.

1 He's a good husband and a good father and I just want you  
2 to show some kind of mercy on him. Thank you.

3 THE COURT: Thank you, ma'am.

4 MR. WILLIAMS: Chris, is there anything you want to  
5 say? Your Honor, he really doesn't want to say anything.  
6 Your Honor, I don't want the Court to take that in any  
7 way -- He has been extremely nervous over the last three  
8 days and he's teared up several times. It's not that  
9 he's not remorseful. That's not the situation. He's  
10 just prepared to take whatever -- He's scared to death of  
11 what's going to happen.

12 But the other thing I thought I would remark on,  
13 Your Honor, is that, it's more of a commentary than  
14 specifically related to him. The law is the law is the  
15 law is the law is. I think we might have commented on  
16 this yesterday. This is not Pablo Escobar. I would ask  
17 the Court to be as lenient as possible, Your Honor.

18 THE COURT: Okay. Thank you very much. Certainly  
19 the fact that he has not addressed the Court is no way  
20 factored into my sentencing. Everybody be at ease for  
21 just a moment.

22 Mr. Williams, did he spend any time in jail before  
23 being released on bond?

24 MR. WILLIAMS: Three days, Your Honor.

25 THE COURT: Three days. Mr. Wilson, I have factored

1 in several things in determining sentencing. Now, this  
2 being a second drug offense, it's a maximum of 30 years  
3 which is very substantial. I factored in the fact that  
4 the amount of crack and powder cocaine that the jury  
5 found the quantity being on the low end of the  
6 trafficking statutes. That certainly works in your favor  
7 tremendously. But what probably bothers me more than  
8 anything and I acknowledge the fact that your wife has  
9 said that you are a good faith and maybe at times you  
10 have been a good father, but what bothers me probably as  
11 much as anything is that these drugs were around the  
12 house with your little, I think you had a one year old,  
13 two year old, five year old, three year old somewhere,  
14 two young kids in the house and you were participating in  
15 the usage and the selling of these drugs with your little  
16 kids in that house. That, sir, is not being a good  
17 father and when I heard that testimony, assuming that the  
18 jury were to find you guilty, that really bothered me a  
19 lot.

20 But again the fact that the amount of drugs found  
21 being on the low end works greatly in your favor but  
22 nonetheless there has to be a punishment associated with  
23 this.

24 Mr. Wilson, on the two trafficking charges, these  
25 will run concurrent with respect to the sentences on the

CHRISTOPHER T. WILSON, SENTENCING

505

1           two trafficking charges, you will be committed to the  
2           State Department of Corrections for eight years. And on  
3           the possession charge that's one year all to run  
4           concurrent. I'll give you three days credit for the time  
5           you spent in jail. Good luck to you, sir.

6           MR. WILLIAMS: Thank you, Your Honor.

7           MR. SPIVEY: Thank you, Your Honor.

8           WHEREUPON, THE TRIAL WAS CONCLUDED.

9  
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## 1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

3 (COUNTY OF LEXINGTON )

4  
5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,  
6 and Official Circuit Court Reporter for the Eleventh Judicial  
7 Circuit in and for the State of South Carolina, do hereby  
8 certify that I reported the proceedings in the before  
9 captioned case in the Court of General Sessions in and for the  
10 State of South Carolina on the 16th through the 19th day of  
11 March, 2015.

12 I FURTHER CERTIFY that the forgoing 505 pages  
13 constitute a true and accurate record of said proceedings.

14 I FURTHER CERTIFY that I am neither related, counsel  
15 to, nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand at  
17 Lexington County, this 8th day of December, 2016.

18  
19  
20 \_\_\_\_\_  
21 Steven E. LeBlanc, Sr., R.P.R.  
22 Eleventh Circuit Court Reporter  
23 State of South Carolina.  
24  
25

Steven E. LeBlanc, R.P.R., Circuit Court Reporter  
P.O. Box 184, Lexington, South Carolina 29071

ORIGINAL  
JM

FILED FORM 15

STATE OF SOUTH CAROLINA 2015 JUN -8 PM 12:12 IN THE COURT OF COMMON PLEAS  
COUNTY OF

BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON, SC

2015 CP 3202060

CHRISTOPHER T. WILSON # 316329 )  
Full name and prison number (if any) of Applicant. )

v. )

APPLICATION FOR

State of South Carolina )

POST-CONVICTION RELIEF )

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lexington County Detention Facility
2. Name and location of Court which imposed sentence LEXINGTON COUNTY COURT HOUSE, 205 EAST MAIN STREET, COLUMBIA S.C. 29072
3. Name(s) of co-defendant(s) (if any) Brittney Wilson & SAMUEL SIMS
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) TRAFFICKING DRUGS IN COCAINE BASE - 10g. or more but less than 28g. (INDICTMENT) → over
  - (b) DRUGS/TRAFFICKING IN COCAINE BASE - 10g. or more but less than 28 grams →
  - (c) BRUSSELPASS. OF MORE THAN ONE OUNCE OF MARIJUANA - 2nd or sub. OFFENSE →

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

- (a) 3/19/15 (Judge Code 2167)
- (b) 3/19/15 (Judge code 2167)

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2015 CP 3202060

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(c) 3/19/15 (Judge Code 2167)

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 "yes" to (7), list:

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

- i. N/A
- ii. N/A
- iii. N/A

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

- i. N/A
- ii. N/A
- iii. N/A

(c) the date of each such result:

- i. N/A
- ii. N/A
- iii. N/A

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

- i. N/A
- ii. N/A
- iii. N/A

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

- (a) DUE TO BEING LOCKED DOWN AND NOT HAVING ACCESS TO PROPER PAPERWORK/MATERIAL TO START AN APPEAL PROCESS.
- (b) \_\_\_\_\_
- (c) SAME REASON FOR B+C AS STATED IN A

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

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 CLERK OF COURT  
 LEXINGTON SC

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- (a) UNLAWFUL ARREST WARRANT ISSUED AND SERVED.
- (b) INSUFFICIENT EVIDENCE PRESENTED OR NOT PRESENTED IN TRIAL
- (c) NEGLECT TO CALL WITNESS THAT COULD HAVE CONTRIBUTED TO A <sup>OVER</sup>

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

- (a) THE FACT THE ORIGINAL ARREST WARRANT WAS ISSUED AND SIGNED
- (b) FACT THAT NO DRUGS OR MARKED MONEY USED IN THE STING OPERATION
- (c) AN OFFICER, WHO WAS A KEY FIGURE IN THE INVESTIGATION, WAS NOT

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

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

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

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

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

NO

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

(a) which grounds have been presented:

i. N/A

ii. N/A

iii. N/A

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

i. N/A

ii. N/A

iii. N/A

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) DUE TO BEING LOCKED DOWN AND NOT HAVING ACCESS TO PROPER PAPERWORK/MATERIAL TO START AN APPEAL PROCESS.

(b) \_\_\_\_\_

(c) SAME REASON FOR B+C AS STATED IN A.

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

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- (a) your arraignment and plea? NO
- (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? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

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. WILLIAM + HENDRIX LAW FIRM (ATTORNEY: THEO WILLIAMS)  
EAST MAIN STREET; COLUMBIA S.C. 29072
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. JURY TRIAL + SENTENCING PHASE
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

SENTENCE REDUCTION / POSSIBLE EXONERATION OF ALL CHARGES.

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

NO

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 CLERK OF COURT  
 LEXINGTON SC

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*[Signature]*

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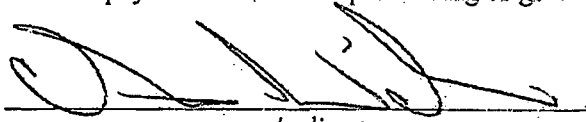
2015 CP 3202060

ORIGINAL

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

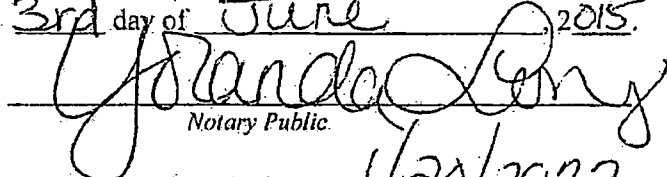
CHRISTOPHER T. WILSON; SEDC# 363369  
I, \_\_\_\_\_, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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



\_\_\_\_\_  
Applicant

SWORN or affirmed to and subscribed before me this  
3rd day of June 2015.



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

My Commission Expires: 1/20/2022

FILED  
2015 JUN -8 PM 12: 12  
BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON SC

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\_\_\_\_\_  
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1) BY THE LATE COUNTY SHERIFF WERTZ (OF QUESTIONABLE REPUTATION) AND NOT BY A JUDGE OR COURT APPOINTED OFFICIAL, THEREBY RENDERING THE WARRANT INVALID.

2) WERE PRESENTED DURING THE TRIAL OR ANY LAB REPORT OF ANY TESTING OF THE ALLEGED SUBSTANCE/SUBSTANCES PURCHASED DURING THE STING OPERATION; NO VIDEO CLEARLY IDENTIFIABLE ENOUGH TO CLEARLY PROVE I WAS THE SUSPECT IN THE OPERATION; THEY BEING INSTRUCTED TO RECONVINCE AFTER COMING BACK WITH A HANG TUNE VERDICT. (ALLEN LAW IMPOSED BY THE JUDGE).

3) ALLOWED TO TESTIFY AFTER BEING RELIEVED OF HIS DUTY BECAUSE OF OFFICER MISCOUNDT BELATED TO MISHANDLING OF EVIDENCE AND QUESTIONABLE DEALING WITH THESE DRUGS TRANSACTION IN PRIOR STINGS. ~~WAS~~ THAT COULD HAVE CREDITED ENOUGH DOUBT IN MY CASE TO WARRANT A NOT GUILTY VERDICT.

4) NOT GUILTY VERDICT ON MY BEHALF.

- A) CASE # 2014653200155; A/W# 2013A3210201216; 2ND OFFENSE
- B) INDICTMENT/CASE # 2014653200156; A/W# 2013A3210201211; 2ND OFFENSE
- C) INDICTMENT/CASE # 2014653200157; A/W# 2013A3210201214

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2015 CP 3202060

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STATE OF SOUTH CAROLINA

VERIFICATION

County of

CHRISTOPHER T. WILSON; SCDC # 363369

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

*[Handwritten signature]*

SWORN to and subscribed before me this 3rd day of June, 2015

*[Handwritten signature: Yolanda Song]* (L.S.)  
Notary Public

My Commission Expires: 1/20/2022

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DETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON SC

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Lex. Co. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS FOR
COUNTY OF LEXINGTON	)	THE ELEVENTH JUDICIAL CIRCUIT
	)	
	)	2015-CP-32-2060
Christopher T. Wilson, #363369,	)	
Applicant,	)	RETURN
v.	)	
State of South Carolina,	)	
Respondent.	)	

---

Respondent, making its Return to the application for post-conviction relief (PCR) filed June 8, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. The Applicant was indicted at the January 2014 term of the Lexington County Grand Jury for trafficking in crack cocaine, 28-100 grams (2014-GS-32-0155); trafficking in cocaine, 10g – 28grams (2014-GS-32-0156); possession of a weapon during the commission of a violent crime (2014-GS-32-0158); and possession with intent to distribute (PWID) marijuana (2014-GS-32-0157). He was represented by Robert T. Williams, Sr., Esquire. On March 19, 2015, Applicant proceeded to trial by jury before the Honorable Donald B. Hocker, Jr, where he was convicted of the lesser included offense of trafficking in cocaine base – 10-28 grams, second offense (-0155); as indicted for trafficking in cocaine, 10-28 grams, second offense (-0156); and the lesser include offense of possession of more than one ounce of marijuana, second or subsequent offense (-0157). Applicant was found not guilty of possession of a weapon during the commission of a violent

crime. Judge Hocker sentenced applicant to confinement for eight (8) years on each cocaine conviction and one (1) year on the marijuana charge. Each sentence was set to run concurrently, with credit for three days' time served. Applicant did not appeal his convictions or sentence.

## II.

Applicant subsequently filed this application for post-conviction relief on June 8, 2015, in which he alleges he is being confined unlawfully for the following reasons:

1. Unlawful arrest warrant issued and served;
  - a. Allegation of the warrant being invalid
2. Insufficient evidence presented or not presented in trial;
  - a. Allegation of insufficient lab report
  - b. Allegation of insufficient video
  - c. Allegation of improper Allen charge
3. Neglect to call witness that could have contributed to a not-guilty verdict on my behalf.
  - a. Allegation of officer misconduct and failure to "have created enough doubt in my case to warrant a not guilty verdict."

Attached herewith and incorporated herein by reference are the records of the Lexington County Clerk of Court regarding the subject convictions, Applicant's records from the Department of Corrections, and Applicant's trial transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## III.

Respondent asserts Applicant's allegations of ineffective assistance of trial counsel are without merit. In a post-conviction relief action, 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, 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, 334 S.E.2d 813.

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, 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 Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Applicant 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.

To the extent Applicant's first and second allegations raise direct appeal issues, they are procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Applicant could have

raised these issues at trial or on appeal. His failure to do so has waived this allegation as a ground for relief. Therefore, the Court should summarily dismiss these allegations.

V.

Respondent, therefore, requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel and involuntary guilty plea. As to all other allegations, Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

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

VII.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments well in advance of the PCR hearing will be opposed by the State at an evidentiary hearing. S.C. Code Ann. § 17-27-10 *et seq.*; Rule 71.1, SCRCP. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. Rule 15(a), SCRCP. Because Applicant has been appointed an attorney, the attorney is the only individual authorized to file amendments to this application, and filings by Applicant will not be considered at the PCR hearing. See Rule 11, SCRCP.

VIII.

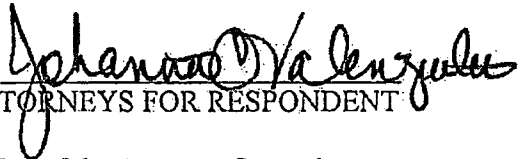
WHEREFORE, having made its Return, Respondent requests an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON  
Attorney General

ROBERT BOLCHOZ  
Chief Deputy Attorney General

JOHANNA C. VALENZUELA  
Senior Assistant Deputy Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

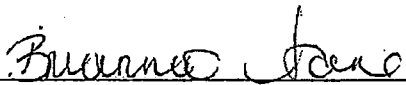
Dec. 15, 2016

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	
	)	
	)	2015-CP-32-2060
CHRISTOPHER T. WILSON, #363369	)	
	)	
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 on the above-captioned matter on the following person via email:

**Arthur K. Aiken, Esquire**  
**Aiken & Hightower**  
**2231 Devine St. Ste. 201**  
**Columbia, SC 29205**

DATED this 15<sup>th</sup> day of December, 2016.

  
 \_\_\_\_\_  
 Brianna Arnone, Legal Assistant  
 For Respondent

## FORM 5

STATE OF SOUTH CAROLINA )

COUNTY OF LEXINGTON )

Christopher T. Wilson, Inmate #363369 )  
Full name and prison number (if any) of Applicant. )

v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

C/A# 2015-CP-32-2060

AMENDED  
APPLICATION FOR  
POST-CONVICTION  
RELIEF**INSTRUCTIONS - READ CAREFULLY**

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

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

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

1. Place of detention SCDOC - Manning Correctional Institution
2. Name and location of Court which imposed sentence Lexington County, SC, Court of General Sessions
3. Name(s) of co-defendant(s) (if any) Samuel D. Sims and Brittney Jay
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2014-GS-32-155 - trafficking cocaine base > 10 grams but < 28 grams, 2d offense
  - (b) 2014-GS-32-156 - trafficking cocaine > 10 grams but < 28 grams, 2d offense
  - (c) 2014-GS-32-157 - possession > 1 ounce of marijuana, 2d offense
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) March 19, 2015 - determinate sentence of 8 years

Revised 3/2003

- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty \_\_\_\_\_
- (b) after a plea of not guilty X
- (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:
- (a) the name of each Court to which you appealed:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) My trial counsel never advised me that I had a right to appeal.
- (b) My trial counsel never asked me whether I wanted to appeal.
- (c) I could not file an appeal on my own because I was on "lock down" at Kirkland Correctional Institution for the entire period during which I could have made a timely appeal of my conviction and sentence.

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

(a) I received ineffective assistance of counsel from my trial attorney in that he failed to tell me that I had a right to appeal, failed to get my decision on whether I wished to appeal, and failed to file a notice of appeal when he did not know whether I wished to appeal:

(b) I received ineffective assistance of counsel from my trial attorney because he failed to object to all evidence sought to be admitted by the government at my trial under Rule 404(b) SCRE:

(c) I received ineffective assistance of counsel from my trial attorney because he failed to object to the jury charges on trafficking crack cocaine and trafficking cocaine when those charges did not include the requirement that those offenses be committed intentionally, willfully, and unlawfully:

(d) I received ineffective assistance of counsel from my trial attorney because he failed to object to the jury charges on trafficking cocaine and trafficking crack cocaine when those charges included instances of the offense that had no relationship whatsoever to the facts of my case; and

(e) I received ineffective assistance of counsel from my trial attorney because he failed to object to the portion of the jury charge on constructive possession in which the court stated: that constructive possession is proven if the government proves beyond a reasonable doubt that the defendant had dominion and control over the property where the drugs were found

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

(a) My trial counsel failed to file a notice of appeal from my conviction and sentence, even though I had never given him any indication that I did not wish to appeal my sentence and conviction because he never asked me if I wanted to appeal

(b) My trial counsel did not object to all of the evidence that the government sought to have admitted in evidence at my trial under Rule 404(b) SCRE

(c) My trial counsel did not object to the charges identified above;

(d) My trial counsel did not object to the charges identified above; and

(e) My trial counsel did not object to the charges identified above.

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

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

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

(a) the specific nature thereof:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

(c) the disposition thereof:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

(d) the date of each such disposition:

i. \_\_\_\_\_

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

i. \_\_\_\_\_

- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
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 petition, motion, or application other than this application has been filed.
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the proceedings in which each ground was raised:
- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
17. Were you represented by an attorney at any time during the course of:
- (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 appeal of my conviction and sentence was taken.
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No petition, motion, or applications other than this application has been filed
18. If you answered "yes" to one or more parts of (17), list:

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

i. Robert T. Williams, Sr.

Williams Hendrix Steigner & Brink, PA

PO Box 849

Lexington, SC 29071

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

i. Trial counsel

ii. \_\_\_\_\_

iii. \_\_\_\_\_

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

New trial or belated appeal

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

No

Respectfully Submitted,

**AIKEN & HIGHTOWER, PA**

**BY:** \_\_\_\_\_

Arthur K. Aiken

2231 Devine Street, Suite 201

Columbia, SC 29205

Tel: 803-799-5205

Email: art@aikenandhightower.com

**ATTORNEYS FOR APPLICANT**

Columbia, SC  
January 23, 2017

1	State of South Carolina )	In the Court
	)	Of Common Pleas
2	County of Lexington )	Case No.: 2015-CP-32-2060
	)	
3	Christopher T. Wilson, )	
	)	
4	Applicant, )	
	)	
5	vs. )	Transcript of Record
	)	
6	State of South Carolina, )	
	)	
7	Defendant. )	
	)	

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January 30th, 2017  
Lexington, South Carolina

BEFORE:

The Honorable Eugene C. Griffith, Junior, Judge

APPEARANCES:

Arthur K. Aiken, Esquire  
Attorney for the Applicant

Johanna Valenzuela, Assistant Attorney General  
Attorney for the Defendant

ALSO PRESENT:

Christopher T. Wilson

1	INDEX		
2	POST CONVICTION RELIEF HEARING		
3	WITNESS		PAGE
4	CHRISTOPHER T. WILSON		
5	Direct Examination by Mr. Aiken		4
6	Cross Examination by Ms. Valenzuela		7
7			
8	ROBERT THEODORE WILLIAMS, SENIOR		
9	Direct Examination by Ms. Valenzuela		16
10	Cross Examination by Mr. Aiken		26
11			
12	Certificate of Reporter		31
13			
14	EXHIBITS		
15	NO. DESCRIPTION	ID	EVDS.
16	NONE		
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 Thereupon, the following proceedings were had,

2 MS. VALENZUELA: Judge Griffith, we sent the judge's  
3 packets by disk and I just wanted to make sure you have  
4 that copy of the disk or do you need another copy?

5 THE COURT: I have it in my computer right now.

6 MS. VALENZUELA: Yes, sir.

7 THE COURT: So thank you very much. All right.

8 What do we have going on first?

9 MS. VALENZUELA: We're gonna start with  
10 Mr. Christopher Wilson's case, Your Honor.

11 THE COURT: All right. Mr. Aiken, you ready?

12 MR. AIKEN: I am, Your Honor.

13 THE COURT: Excellent. Your client is ready also?

14 MR. AIKEN: We're ready to go.

15 THE COURT: Okay. It's your case.

16 MR. AIKEN: The applicant calls Christopher  
17 Wilson.

18 Thereupon,

19 CHRISTOPHER T. WILSON

20 after having been first duly sworn, testified as follows,

21 THE CLERK: Please have a seat. Once you're seated,  
22 state your full name for the record please.

23 THE WITNESS: Christopher T. Wilson.

24 MS. VALENZUELA: Your Honor, just before we get  
25 started, I know that there were amended applications

CHRISTOPHER WILSON - DIRECT BY MR. AIKEN

4

1 filed and Mr. Aiken indicated that at least one of those  
2 amendments was now being withdrawn so just for the  
3 Court's clarification I just wanted to note that that  
4 would be 10(c) that is withdrawn.

5 MR. AIKEN: That's correct, Your Honor.

6 THE COURT: Okay. I've got it in my hand. So 10(c)  
7 is not being utilized anymore?

8 MR. AIKEN: That's correct, Your Honor.

9 THE COURT: That's struck out. Very good.

10 DIRECT EXAMINATION

11 BY MR. AIKEN:

12 Q. Mr. Wilson?

13 A. Yes.

14 Q. Are you the applicant in this post conviction relief  
15 case?

16 A. Yes, sir.

17 Q. Could you speak up just a little bit?

18 A. Yes, sir.

19 Q. I don't hear that well. You're presently  
20 incarcerated?

21 A. Yes, sir.

22 Q. Where?

23 A. At Manning Correctional.

24 Q. Mr. Wilson, you had a trial back in March of 2015?

25 A. Yes, sir.

1 Q. And were you convicted following that trial?

2 A. Yes, sir.

3 Q. And you were sentenced?

4 A. Yes, sir.

5 Q. How much time did you get?

6 A. Eight years.

7 Q. Now, that trial lasted how long?

8 A. Two days.

9 Q. You were represented by Robert T. Williams, Senior  
10 also known as Theo Williams?

11 A. Yes, sir.

12 Q. Now, during your representation pretrial and at  
13 trial, did Mr. Williams ever discuss with you your right to an  
14 appeal?

15 A. No.

16 Q. Did he ever discuss that with you after your  
17 conviction?

18 A. No, sir.

19 Q. Did he ever discuss that with you after your  
20 sentencing?

21 A. No, sir.

22 Q. And following your sentencing did you have any  
23 communication at all with Mr. Williams?

24 A. No, sir.

25 Q. Now, at that time did you know, at that particular

CHRISTOPHER WILSON - DIRECT BY MR. AIKEN

6

1 time did you know you had the right to an appeal?

2 A. I wasn't -- I didn't have that many knowledge of  
3 it.

4 Q. Now, had you known that you had a right to an  
5 appeal, would you have told Mr. Williams to appeal on your  
6 behalf?

7 A. Yes, sir.

8 Q. Now, after you were no longer in communication with  
9 Mr. Williams, did you find out you had a right to an appeal?

10 A. Yes.

11 Q. When was that?

12 A. When I was at Walden.

13 Q. How did you find out about that?

14 A. Inmates.

15 Q. And since you found out that you had a right to an  
16 appeal, how come you didn't file an appeal?

17 A. Well, when I was at -- What's the holding facility?  
18 Kirkland. -- I didn't have the proper paperwork to put in for  
19 appeal.

20 Q. Was there something going on in the facility?

21 A. Yeah. We was on lockdown. I was only there 29  
22 days.

23 Q. What are the circumstances of your incarceration  
24 when you are in lockdown?

25 A. I mean, you don't - you get an indigent package but

1 I didn't receive one because I wasn't there that long. I was  
2 only there 29 days, and plus when you're on lockdown, you have  
3 to stay in your cell 24 hours. You can't go to cafeteria.  
4 You get no paperwork or nothing like that.

5 MR. AIKEN: Thank you, Mr. Wilson. If you could  
6 answer any questions that Ms. Valenzuela may have.

7 MS. VALENZUELA: May it please the Court.

8 THE COURT: Yes, ma'am.

9 CROSS EXAMINATION

10 BY MS. VALENZUELA:

11 Q. Now, Mr. Wilson, let's talk a little bit about your  
12 past criminal history. You have prior convictions, correct,  
13 other than the ones that we are here before you today?

14 A. I have probation. Yes.

15 Q. Did you have a conviction in '95 for possession of  
16 stolen motor vehicle?

17 A. Yes, ma'am.

18 Q. And you were convicted for that and received one  
19 year, YOA suspended to three years probation?

20 A. Yes, ma'am.

21 Q. And then in 2004 did you have a conviction for  
22 trafficking crack where you received 60 days in jail? I'm  
23 sorry. I'm looking at, and it was possession of a controlled  
24 substance schedule one to five first offense?

25 A. Yes.

1 Q. And in 2005 did you have a conviction for failure to  
2 stop for a blue light?

3 A. Yes, ma'am.

4 Q. And on that one you also got two years suspended to  
5 probation?

6 A. Yes, ma'am.

7 Q. Now, in your conviction you had, first you have the  
8 trial, correct? And you were convicted at the trial?

9 A. Yes, ma'am.

10 Q. And then was there a break in time between your  
11 trial and your sentencing?

12 A. Well, after I was found guilty. Yeah. They  
13 sentenced me the next day.

14 Q. So there was a break in time. So you concluded  
15 after you were found guilty and then you came back in front of  
16 the judge at a different time?

17 A. Yes, ma'am.

18 Q. Okay. And you met with your attorney in between the  
19 break from the time that you were convicted and when you were  
20 sentenced?

21 A. No.

22 Q. Okay. And then after your sentencing, you're saying  
23 that you didn't speak to your attorney at any time?

24 A. Repeat the question.

25 Q. After your sentencing, you didn't speak to your

1 attorney Theo Williams at any time?

2 A. No. I don't remember talking to him. No.

3 Q. Okay. What do you think, if you had filed an  
4 appeal, what is it that you wished that you had appealed?

5 A. Well, I -- Well, when I had knowledge of the appeal,  
6 I was going to appeal the subject matter jurisdiction.

7 Q. Okay. Is that it, the subject matter  
8 jurisdiction?

9 A. Yeah. I mean, because there was of a lot of issues  
10 on the subject matter jurisdiction.

11 MS. VALENZUELA: Nothing further, Your Honor.

12 THE COURT: Anything else, Mr. Aiken?

13 MR. AIKEN: No redirect, Your Honor.

14 THE COURT: All right. You can stand down.

15 MR. AIKEN: Your Honor, the remainder of my  
16 presentation on the other grounds for post conviction  
17 relief is based exclusively on the transcript so there's  
18 no need for Mr. Wilson to testify about what's in his  
19 transcript. So what I would like to do is just make the  
20 presentation based on the transcript itself.

21 THE COURT: Okay. Fair enough.

22 MR. AIKEN: If you could refer to the grounds of  
23 post conviction relief, Your Honor, which is paragraph 10  
24 of our amended application, ground B refers to failure to  
25 object to evidence sought to be introduced by the

1 government under Rule 404(b). The government tried this  
2 case as a possession case and the real crux of the matter  
3 at the trial was whether Mr. Wilson had knowledge of  
4 drugs found at a trailer where he lived.

5 THE COURT: So a search case?

6 MR. AIKEN: Yes, sir. They searched. They found  
7 drugs at the trailer and he was charged with those drugs.  
8 The indictments are strange because they go back to a  
9 time during which there had been what they call probable  
10 cause buys at that particular trailer but the case was  
11 tried based on the drugs that were found as part of the  
12 search from the search warrant.

13 THE COURT: Yeah. That's kind of a typical pattern  
14 of behavior by investigating drug trade is they make  
15 controlled buys, okay, there's something going on here,  
16 get a search warrant for it.

17 MR. AIKEN: That's exactly what they did here, Your  
18 Honor. What the government did was tried the case based  
19 solely on the drugs that were found --

20 THE COURT: In that trailer?

21 MR. AIKEN: -- in the search.

22 THE COURT: All right.

23 MR. AIKEN: But at trial what they tried to  
24 introduce and were successful in introducing was evidence  
25 of the controlled buys and they called the CI as a

1 witness and they also used videotape from those  
2 controlled buys. And remember, he is not really on trial  
3 for those controlled buys. He's on trial for possession  
4 of the drugs found from the search.

5 THE COURT: They thought that was their better case.

6 MR. AIKEN: That's true, Your Honor. I'm sure they  
7 did. The problem is Mr. Williams did not object to the  
8 confidential informant's testimony about the controlled  
9 buys. But then when the government tried to introduce  
10 the videos in evidence, he objected under Rule 404(b) to  
11 the videotape evidence so he sort of halfway objected to  
12 the 404(b) evidence.

13 The theory that the government proffered for  
14 introducing the 404(b) evidence was that it went to the  
15 issue of intent and there are cases decided by our  
16 Supreme Court that say when you have a possession with  
17 intent to distribute case and you have prior sales that  
18 are uncharged prior bad acts, you can introduce those  
19 prior sales to prove intent. But the problem was in this  
20 case the real issue was not intent. It was whether Mr.  
21 Wilson even knew that drugs were there to begin with  
22 because obviously -- Well, this wasn't a actual  
23 possession case because no drugs were found on Mr.  
24 Wilson. This was a constructive possession case and for  
25 constructive possession you obviously have to know the

1 drugs are there for you to constructively possess them.  
2 It's hard to imagine how you can have dominion and  
3 control over drugs you didn't even know were there.

4 So our position on this particular ground is that an  
5 objection should have been made to all of the prior sales  
6 evidence, the CI's evidence and the videotape evidence  
7 and that if a proper objection had been made, under the  
8 law it should have been excluded because it didn't go to  
9 the issue of intent. Rather it went to the issue of  
10 knowledge which was the crux of the whole trial.

11 So, Your Honor, that's our presentation on 10(b).

12 THE COURT: Okay.

13 MR. AIKEN: Do you have any questions for me on that  
14 one, Your Honor?

15 THE COURT: No. I understand. Your argument is he  
16 objects to video. Didn't object to the prior conduct but  
17 did object to videos. I understand what you are  
18 arguing.

19 MR. AIKEN: Then we go, Your Honor, to ground 10(d),  
20 and on that ground if you look at the jury charge.

21 THE COURT: The jury instructions?

22 MR. AIKEN: Yes, sir. In the jury instructions, and  
23 I will have the exact --

24 THE COURT: Did the name of the prosecuting attorney  
25 change in the transcript? Is that my imagination? It

1 was Mr. Caskey and it changed to Mr. Spivey.

2 MR. AIKEN: They both tried the case together.

3 THE COURT: Who is Spivey?

4 MR. AIKEN: Scott Spivey.

5 THE COURT: Scott Spivey. Okay.

6 MR. AIKEN: On page 473 and 474 of the transcript  
7 the judge gave a trafficking charge which was applicable  
8 to both the cocaine trafficking and the crack trafficking  
9 charge and what he did, Your Honor, was charge the entire  
10 statute and the trafficking statute says knowingly sold,  
11 manufactured, and this is what he charged, cultivated,  
12 delivered, purchased, brought into the state, provided  
13 financial assistance or otherwise aided, abetted, attempt  
14 or to conspire to sell, manufacture, cultivate, deliver,  
15 purchase or bring into this state and was knowingly in  
16 actual constructive possession and knowingly attempted to  
17 become in actual or constructive possession.

18 That charge should have been objected to because  
19 while it gives the entire statutory text, it charges on  
20 theories of criminal liability that are not applicable to  
21 the facts of this case. The facts of this case had to  
22 deal with possession of the drugs and there shouldn't  
23 have been any charge about sale, cultivation, bringing  
24 into the state or anything like that because that was not  
25 what was actually on trial. What was on trial was

1 trafficking by possession of the drugs and that charge  
2 should have been objected to.

3 And the reason why this is so important, Your Honor,  
4 is that the trial actually lasted for four days and the  
5 jury deliberated, and I'll give you the exact times, the  
6 jury deliberated from 12:38 p.m. to 5:55 p.m. and during  
7 that time at 4:20 p.m. the jury came back and said they  
8 were deadlocked and then the judge gave an Allen Charge  
9 at 4:25 p.m. and they deliberated another hour and a half  
10 and came to a verdict. So it seems clear to me that the  
11 jury had a lot of trouble with this case and the charge  
12 being much broader than the facts supported creates a  
13 substantial risk that they found him guilty on an  
14 improper basis.

15 THE COURT: But didn't he go behind that and define  
16 possession and constructive possession and intent?  
17 Didn't he go behind that statute and define those things?

18 MR. AIKEN: He did define possession and  
19 constructive possession but the problem is you have it  
20 laid out for the jury this laundry list of violations  
21 only one part of which had anything to do with the facts  
22 as presented in the case. So that charge should have  
23 been objected to.

24 And then 10(e) has to do with the charge of  
25 constructive possession which is 475 and - actually 476

1 the charge says constructive possession means that the  
2 defendant had dominion and control or the right to  
3 exercise dominion and control over either the marijuana  
4 itself or the property on which the marijuana was found  
5 and again mere presence at the scene where the drugs were  
6 found is not enough to prove possession.

7 The problem with that charge, Your Honor, is it  
8 basically says you can be found to constructively possess  
9 the drugs if you exercise dominion and control over the  
10 property on which the drugs were found. That's not  
11 enough to show constructive possession. You have got to  
12 go beyond that. There's a permissible inference that if  
13 you exercise dominion and control over property where  
14 drugs are found, there's a permissible inference that you  
15 exercise dominion and control over the drugs but you are  
16 not absolutely guilty of constructive possession of the  
17 drugs solely because you have dominion and control over  
18 the property. So that charge should have been objected  
19 to as well. And given the difficulty the jury had in  
20 analyzing the evidence in the case and, in fact, they  
21 were out for such an extended length of time and came  
22 back saying that they could not reach a unanimous verdict  
23 and having been Allen Charged, then the failure to object  
24 to that charge was prejudicial to the defendant's case.

25 That's the presentation of the applicant, Your

ROBERT T. WILLIAMS - DIRECT BY MS. VALENZUELA

16

1 Honor.

2 THE COURT: All right. Ms. Valenzuela.

3 MS. VALENZUELA: Yes, Your Honor. The respondent  
4 would call Theo Williams to the stand.

5 Thereupon,

6 ROBERT THEODORE WILLIAMS, SENIOR  
7 after having been first duly sworn, testified as follows,

8 THE CLERK: Please have a seat. Once you're seated,  
9 state your full name for the record please.

10 THE WITNESS: Robert Theodore Williams, Senior.

11 DIRECT EXAMINATION

12 BY MS. VALENZUELA:

13 Q. Okay. Mr. Williams, can you give the Court just a  
14 brief background of your history as a criminal defense  
15 attorney, please?

16 A. I've been practicing law for a little over 40 years.  
17 Since 1997 up until March of last year I did nothing but  
18 criminal work.

19 Q. Okay. Thank you. Now, were you hired or were you  
20 appointed to represent the applicant?

21 A. I was hired.

22 Q. Okay. Let's talk first about the allegation  
23 regarding the direct appeal. Did you advise your client of  
24 his rights to take a direct appeal from his trial?

25 A. I can't imagine going through this whole trial and

1 after the trial not having some conversation with him about  
2 the right to appeal. If I didn't, I sure meant to.

3 Q. Would you - do you have a recollection of whether  
4 you would have met with him after the conviction in between  
5 the conviction and the sentencing?

6 A. I think we did talk before the sentencing because I  
7 would have had to line up who was going to say what for him.  
8 I want to say his wife spoke for him maybe. So we had to  
9 speak before obviously. He was sentenced on the next day.

10 Q. Would this have been one of the issues that you  
11 would have covered knowing that he had been convicted of some  
12 of the charges as indicted and one of the charges as a lesser  
13 included?

14 A. Sure. Now, I know we were going over his record. I  
15 was of the impression that he had more than those convictions  
16 on his record.

17 Q. I'm gonna come back to that. I just really --  
18 I want to phrase my question a little more artfully. When I  
19 said would this have been one of the issues that you would  
20 have talked to him at that time, I'm referring to his right to  
21 appeal.

22 A. Right.

23 Q. When you say "sure", are you saying sure, I would  
24 have discussed with him his right to appeal in between the  
25 time he was convicted and sentenced?

ROBERT T. WILLIAMS - DIRECT BY MS. VALENZUELA

18

1           A.    I can't imagine him not knowing.  It would be more  
2 appropriate for him to say that I asked Mr. Williams to file  
3 an appeal and he didn't do it than for him to say I didn't  
4 know I had a right to an appeal.

5           Q.    So you feel like your client did know of his right  
6 to appeal?

7           A.    Yes.

8           Q.    Did he ask you to file an appeal?

9           A.    No.

10          Q.    Did he send you any sort of correspondence after the  
11 conviction or the sentencing asking you to file an appeal?

12          A.    No.  And it's unusual for me not to appeal because I  
13 think the Clerk's Office hates me because I always get the  
14 sentencing sheets and I immediately file the appeal and hot  
15 foot it down and get appellate defense to handle it.  I think  
16 we were somewhat -- I was upset that he was convicted and he  
17 was, too, obviously because he's the one doing the time but we  
18 thought that eight years, at least I thought that eight years  
19 could have been a whole lot worse.  A lot worse.  And I think  
20 that's evidence and I think he probably knows that, too.  
21 Though I don't think they should have convicted him.

22          Q.    Was there anything in the time that you represented  
23 your client throughout that trial that you felt this is  
24 something that needs to be taken up on direct appeal?

25          A.    No.  It was a jury question I thought.  If we had

1 some how managed to put that can of drugs in some other  
2 location other than in the kitchen, we might have been able to  
3 convince more jurors about it. I always thought it was his  
4 brother who was handling those drugs but there was, around the  
5 periphery there was problems for him, the brother who is  
6 dead.

7 Q. And I think part of what you need to explain to the  
8 Court is the charges that he was facing because opposing  
9 counsel spent some time talking about the trafficking charge.  
10 Was the trafficking charge the only charge that your client  
11 went forward with at trial?

12 A. No. There were three charges that he went forward  
13 with at the trial and I want to say, but since I'm under oath  
14 I'm not gonna just say that, I want to say that there was kind  
15 of an understand -- I don't think Spivey and Caskey were  
16 looking forward to trying the distribution charges. I think  
17 they were willing to take their shot with the possession  
18 charges because there were four buys from the house. One buy  
19 for whatever reason the Sheriff's Department did not do the  
20 drug analysis on it so... And I just thought that was crazy.

21 The other three buys, one involved a direct buy from  
22 my client. One involved a buy from his brother and my client  
23 sticks his head out the window and yells something at him  
24 about, you know, we don't want any funny business around here  
25 which could be taken a different way than him being involved

ROBERT T. WILLIAMS - DIRECT BY MS. VALENZUELA

20

1 in the actual sale of that particular drug. So it was -- They  
2 didn't want to deal with those distributions. Plus, the  
3 informant that they had was, well, clearly he was working off  
4 charges and clearly he was -- I don't know. I don't know what  
5 you say about him.

6 Q. Well, we'll come back. I want to talk about the  
7 informant in a little bit. But going back to the charges,  
8 it's important for the Court to realize that one of the  
9 charges that your client was actually indicted for, proceeded  
10 to trial for and was actually presented to the jury was a  
11 possession with intent to distribute charge?

12 A. True.

13 Q. And actually the jury came back and after the Allen  
14 Charge they found him guilty as indicted on the trafficking  
15 charges related to the cocaine but on the possession with  
16 intent to distribute they found him guilty of the lesser  
17 included charge of possession of marijuana?

18 A. Yes.

19 Q. Okay. Is it fair to say that it might have been,  
20 when the jurors came out to indicate that they were  
21 deadlocked, the judge does not ask the jury to talk to him  
22 about what charge it is that they were deadlocked, correct?

23 A. Yeah. Well, I could speculate all day long about  
24 why a jury reaches a verdict and why it takes them so long. I  
25 always thought that they were a little bit sympathetic with

1 the fact that these other two characters in the trailer  
2 meaning his wife, but they didn't want to proceed with her,  
3 and his brother, why they weren't in there being tried.

4 Q. And so there's lots of reasons why the jury may have  
5 been deadlocked at one point. But what we do know is that  
6 there's only one charge that they came back on the lesser  
7 included and that was the possession with intent to distribute  
8 charge that came back as a possession of marijuana?

9 A. That's true.

10 Q. Okay. And so let's go back. You were talking to us  
11 a little bit -- Well, one, I cut you off earlier. Talk to me  
12 about your client's criminal history and how you thought that  
13 that factored in?

14 A. We talked a lot about trying the case. He didn't  
15 want to try this case and I spent several occasions talking to  
16 Chris about it. Chris is a real nice guy. He spent some time  
17 in jail. He did not want to go back to jail and we wanted to  
18 work a deal where he could plead to something and get  
19 probation but because of his prior record and because of what,  
20 I guess, the Sheriff's Department, narcotic people were saying  
21 we couldn't get a deal cut to do that. So his concern was he  
22 didn't want to get a bunch of time. He had an expectation of  
23 catching some time but he didn't want a lot of time,  
24 particularly since these charges carried a lot of time. I  
25 mean, he had two kids, I think, and a wife.

ROBERT T. WILLIAMS - DIRECT BY MS. VALENZUELA

22

1 Q. And then I think that links back to what you were  
2 saying about you guys being disappointed with the verdict but  
3 I don't know if the right word is satisfied but at least  
4 pleasantly surprised with the eight year sentence based on the  
5 convictions?

6 A. I think the judge was sympathetic with Chris. I  
7 think he saw that he was a nice guy who was messing with  
8 drugs.

9 Q. I want to turn briefly to the issues raised by  
10 counsel. We have talked about the direct appeal. You believe  
11 that you would have talked to your client about that. He did  
12 not ask you for an appeal. So moving onto the jury charges  
13 where there's a reference to other actions, what was your  
14 position on the entire statute for the trafficking being  
15 addressed? Actually, let me back up real quick. I want to --  
16 I'm sorry. I'm skipping one of the allegations. So one of  
17 the allegations is that you should have objected both to the  
18 CI's testimony and to the video testimony, correct?

19 A. Correct.

20 Q. But your client was at least facing one possession  
21 with intent to distribute charge?

22 A. He was.

23 Q. Which would have -- And then additionally there was  
24 a search warrant and you had to litigate the underlying basis  
25 of that search warrant to go into the home?

1           A.    Yeah.  To a certain extent it kind of helped us  
2 because it looked like law enforcement was destined to go  
3 after him.  I mean, they had one narcotics officer who was  
4 sitting out there on the road and I want to say that Chris  
5 went up there and asked him what he was doing and the  
6 narcotics officer said, well, we hear there's a lot of  
7 burglaries around here and some of that I want to say came  
8 into the trial.  Then you had the fact that they - the snitch  
9 was like totally, I thought was totally unbelievable.  He was  
10 somebody clearly who was there trying to work off charges.

11           Q.    When you say the snitch, you're referring to the  
12 confidential informant?

13           A.    I'm sorry.  Confidential informant.  That's right.

14           Q.    I just want the Judge to know you're talking about  
15 who PCR counsel relied on to make this point.  So you thought  
16 that the confidential informant was not reliable?

17           A.    I didn't think the jury would like him.  I know we  
18 didn't particularly like him.

19           Q.    And this was something that you felt in terms of --  
20 Well, did this factor into your strategy at all?

21           A.    Sure.  The videos are damning.  I mean, you never  
22 want to see something that clearly indicates your client is  
23 there when drugs are being discussed or passed but you can  
24 always attack some guy who is not very reputable to begin  
25 with.

1           Q.    Looking back at your decision to have the jury see  
2 what you called the disreputable snitch referring to the CI,  
3 but then successfully oppose the videos coming in, were you  
4 satisfied with your strategy in that case?

5           A.    I was.  You know, it's hard to take a microchip when  
6 you're trying a case and I realize that.  I try a lot of  
7 cases.  I mean, a lot of cases and I'm sure the judge hates me  
8 for trying a lot of cases but sometimes if you can design - if  
9 someone is going to get your client with a search warrant and  
10 find the drugs in the house, if you can indicate a different  
11 theory such as they were after him all along or it's really  
12 the brother who was the one who had the drugs, then it helps.  
13 It helps to have that extra stuff and that's why the jury took  
14 so long.

15          Q.    Now, let me talk to you a little bit about just  
16 envisioning if you had challenged the confidential informant.  
17 Was the State's case in trying to prove this against your  
18 client was that it was found in his trailer and that he would  
19 have had knowledge and so part of what they would argue they  
20 were trying to prove in their case was the knowledge your  
21 client had that these drugs would be in his house?

22          A.    It was in the kitchen.  They found the gun in the  
23 bedroom but his wife said that the gun was hers which is good,  
24 but clearly he knew the gun was there.  He lived there.  It's  
25 kind of hard to explain how all these drugs are up in this

1 cabinet. Of course, the argument is he's not a cook maybe but  
2 it was in a bad location. If we had had those drugs maybe in  
3 his brother's room, it might have been better.

4 Q. But those were not the facts --

5 A. Those were not the facts.

6 Q. -- which you were given. Okay. So let's turn to  
7 the jury instructions, the jury charges here. What was your  
8 position on the trafficking charges advising the jury of the  
9 statute and PCR counsel alleges that you should have objected  
10 and had portions of that statute omitted?

11 A. I don't know that that's unusual for the judge to  
12 give the full statute and then say something behind that  
13 clarifies that. I mean, that's kind of a -- I don't think the  
14 judge likes for us to artfully craft the statute. I mean, I  
15 don't think it hurts. Maybe it doesn't apply.

16 Q. Would you object to jury -- Have you objected to  
17 jury charges in the past?

18 A. Sure.

19 Q. Would you object to jury charges that you thought  
20 were misleading, causing any sort of confusion or misleading  
21 the jury?

22 A. I would.

23 Q. Misleading the jury or confusing them not in your  
24 client's favor?

25 A. That way.

1 Q. Yes. Yes. Okay. So did you feel that these jury  
2 charges were misleading or confusing the jury in the State's  
3 favor?

4 A. I didn't think it was helping the State.

5 Q. Okay. And what is your position on the constructive  
6 possession charge? Did you see anything worthy of  
7 objecting?

8 A. It's a good charge on constructive possession.

9 MS. VALENZUELA: Okay. Nothing further, Your  
10 Honor.

11 THE COURT: Mr. Aiken.

12 CROSS EXAMINATION

13 BY MR. AIKEN:

14 Q. Do you have a letter or anything that you sent to  
15 Mr. Wilson confirming that he didn't want to appeal?

16 A. No.

17 MR. AIKEN: Thank you.

18 THE COURT: All right. You can step down.

19 MS. VALENZUELA: Your Honor, just brief argument in  
20 response to Mr. Aiken's argument at the end of his case.  
21 Going through these it is our position that there is a  
22 difference in testimony between the applicant and counsel  
23 as to whether the applicant was advised of his direct  
24 appeal rights and, of course, it's up to you as the  
25 finder of fact in this case to make a credibility finding

1           between those two as to that issue. The case law is that  
2           he has to be advised of his right to appeal on a direct  
3           appeal case but I do point out that his only allegation  
4           that he claims that he would raise would be subject  
5           matter jurisdiction.

6           In all candor, the Court, of course, knows if a  
7           notice of appeal is filed, then usually appellate counsel  
8           will review it and does not rely solely on the  
9           applicant's allegations.

10          There are the 404(b) challenge as was clarified,  
11          Your Honor, to you the applicant was facing a possession  
12          with intent to distribute charge. Obviously the State  
13          would be trying to show that this just wasn't just  
14          happened to be in the applicant's trailer; that he would  
15          have knowledge of it somehow and part of that would go in  
16          proving that case that he had been involved in drug deals  
17          and knew of drug deals coming out of his trailer.

18          And then you heard the applicant's counsel, the  
19          trial counsel explain that this was specific strategy.  
20          He wanted to put what he termed the snitch up there. He  
21          wanted the jury not to like them. He wanted to suggest  
22          that there was something else that jury could be mad at  
23          the State for in this case and he thought that it was  
24          successful strategy to let the CI get up there but then  
25          really object to and keep the videos out of this.

1           We think the jury charges speak for themselves, Your  
2 Honor. We don't think that there is anything but  
3 additionally you heard that there was strategy in that  
4 case. Where there are confusing long jury charges to a  
5 jury that would benefit the client Mr. Williams has  
6 chosen to allow that confusion to benefit him. And then  
7 I showed this case to opposing counsel before we started  
8 the hearing, Your Honor, and I'll hand it up. State  
9 versus Mohammed. 338SC22 and there, Your Honor, this is  
10 a Court of Appeals case from 2000 that goes through the  
11 jury instruction or the case law related to constructive  
12 possession. At pin cite 27 it does say that constructive  
13 possession occurs when the person charged with possession  
14 has dominion and control over either the drugs or the  
15 premises upon which the drugs are found and so our  
16 position would be that that charge was not - it was not  
17 wrong. It was not incorrect and, in fact, counsel's  
18 representation in this case lead to a result where his  
19 client, there had to be an Allen Charge so he made the  
20 jurors think and then they came back with the lesser  
21 included on the possession with intent to distribute on  
22 the marijuana charge and then still his advocacy resulted  
23 in the judge sentencing this applicant who had a criminal  
24 history to only eight years for the convictions that the  
25 State was able to secure.

1           If I may approach the bench just to hand up State  
2 versus Mohammed.

3           THE COURT: Sure.

4           MR. AIKEN: Go ahead. You're good.

5           MS. VALENZUELA: Thank you, Your Honor.

6           MR. AIKEN: May I respond, Your Honor?

7           THE COURT: You may.

8           MR. AIKEN: As far as the right to appeal issue, my  
9 client testified directly that he did not receive any  
10 counsel concerning his right to an appeal. Mr. Williams  
11 said I can't imagine I wouldn't have done it. That's not  
12 a direct statement that I absolutely did do it. And  
13 there is no, I mean, you would think that for something  
14 as important as that after a trial of four days and jury  
15 deliberations for approximately five hours he would send  
16 a letter to the guy saying this is to confirm that you  
17 told me you didn't want to appeal just to make sure it  
18 was clear to everybody exactly what the decision was.  
19 Memorialize it in some way.

20           And as far as my arguments on the other grounds for  
21 post conviction relief in my presentation I essentially  
22 set forth our arguments on those grounds and so I see no  
23 need to repeat those here right now, Your Honor. Thank  
24 you.

25           THE COURT: Fair enough. All right. I will let

1 y'all know on that one.

2 MS. VALENZUELA: Thank you, Your Honor.

3 MR. AIKEN: Thank you, Judge.

4 WHEREUPON, THE HEARING WAS CONCLUDED.

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**ORIGINAL**

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

) IN THE COURT OF COMMON PLEAS FOR  
) THE ELEVENTH JUDICIAL CIRCUIT

**RECEIVED**

Christopher T. Wilson, #363369,  
Applicant,

Case No.: 2015-CP-32-2060 JUN 26 2017

v.

State of South Carolina,  
Respondent.

ORDER OF DISMISSAL  
**RECEIVED**

S.C. SUPREME COURT  
LISA M. COMER  
CLERK OF COURT  
LEXINGTON SC  
MAY -9 PM 3:43  
**FILED**

JUN 23 2017

**SC Court of Appeals**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed June 8, 2015, and amended on January 26, 2017. Respondent made its return on December 15, 2016. An evidentiary hearing was held on January 30, 2017 at the Lexington County Courthouse. Applicant was present and represented by Arthur Aiken, Esquire. Senior Assistant Deputy Attorney General Johanna C. Valenzuela represented Respondent.

Applicant and Robert T. Williams, Sr., Esquire, Applicant's trial counsel, testified at the hearing. The Court had before it the trial transcript; the Lexington County Clerk of Court records; the South Carolina Department of Corrections records; the PCR application; the amended application; and the Return.

**PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. Applicant was indicted at the January 2014 term of the Lexington County Grand Jury for trafficking in crack cocaine, 28-100 grams (2014-GS-32-0155); trafficking in cocaine, 10g - 28grams (2014-GS-32-0156); possession of a weapon during the commission of a violent crime (2014-GS-32-0158); and

1 *Self*

possession with intent to distribute (PWID) marijuana (2014-GS-32-0157). He was represented by Robert T. Williams, Sr., Esquire. On March 19, 2015, Applicant proceeded to trial by jury before the Honorable Donald B. Hocker, Jr., where he was convicted of the lesser included offense of trafficking in cocaine base – 10-28 grams, second offense (-0155); as indicted for trafficking in cocaine, 10-28 grams, second offense (-0156); and the lesser include offense of possession of more than one ounce of marijuana, second or subsequent offense (-0157). Applicant was found not guilty of possession of a weapon during the commission of a violent crime. Judge Hocker sentenced applicant to confinement for eight (8) years on each cocaine conviction and one (1) year on the marijuana charge. Each sentence was set to run concurrently, with credit for three days' time served: Applicant did not appeal his convictions 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 (2003).

#### **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 SCRPC 71.1(e)). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d

at 814.

First, the applicant must show that counsel's performance "fell below an objective standard of reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Second, Counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; see Strickland v. Washington, 466 U.S. 668, 688, 692, 104 S. Ct. 2052, 2065, 2067 (1984) ("[T]he defendant must show that counsel's representation fell below an objective standard of reasonableness [and] . . . any deficiencies in counsel's performance must be prejudicial to the defense in order to constitute ineffective assistance under the Constitution."); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006) ("PCR applicant must prove: (1) that counsel failed to render reasonably effective assistance under prevailing professional norms; and (2) that the deficient performance prejudiced the applicant's case.").

This Court will now address each allegation of ineffective assistance of counsel:

**Allegation #1: Failure to file an appeal**

Applicant testified his counsel never discussed appeal with him. Applicant claims that had he known about his right to appeal, he would have asked his attorney to file an appeal to

challenge subject matter jurisdiction.

Trial counsel testified that he spoke with Applicant in between the jury verdict and sentencing and Applicant did not ask him to file a direct appeal. Trial counsel believes he did advise Applicant of his direct appeal rights and confirms Applicant did not ask him to file a direct appeal before, during, or after the trial. Trial counsel did not believe there was a basis to appeal; Applicant was convicted of two lesser offenses, found not guilty on another charge, and received eight years for his three convictions. Trial counsel believed Applicant's sentence could have been worse.

"Following a trial, counsel is required to make certain the defendant is made fully aware of the right to appeal." Turner v. State, 380 S.C. 223, 224-25, 670 S.E.2d 373, 374 (2008) (internal citations omitted). Unless defendant intelligently waived the appeal, counsel must either initiate an appeal or comply with the procedure in Anders v. California, 386 U.S. 738 (1967). Id. (citing to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974)).

Here, trial counsel testified that he believed he advised Applicant of his right to appeal, that he saw no basis to appeal, and that Applicant never indicated he wanted to appeal. The Court finds trial counsel's testimony more credible than Applicant's and concludes Applicant knowingly waived his right to file a direct appeal and Applicant is not entitled to a belated appeal.

**Allegation #2: 404(b)**

Applicant also testified that trial counsel should have challenged the admission of the video because intent was not issue for the jury and Applicant believed it was prejudicial.

Trial counsel testified that while the state did not have to prove intent, it did have to prove knowledge in the case. Further, Applicant was originally facing charges of possession with

intent to distribute, but the jury convicted him of the lesser included charge of possession. Finally, counsel testified that the confidential informant in the case was not likeable, and he believed showing the videos helped challenge the credibility of the state's case.

"[W]here counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." Watson v. State, 370 S.C. 68, 72, 634 S.E.2d 642, 644 (2006) (citing Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992)). "Counsel's performance is accorded a favorable presumption, and a reviewing court proceeds from the rebuttable presumption that counsel 'rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.'" Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (quoting Strickland, 466 U.S. at 690, 104 S.Ct. 2052). "Accordingly, when counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." Id. (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)). "Courts must be wary of second-guessing counsel's trial tactics; and where counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992) (citing Goodson v. United States, 564 F.2d 1071 (4th Cir. 1977)).

In Watson, the Supreme Court reversed a PCR court's determination that counsel was ineffective for failing to prevent the introduction of hearsay testimony of several witnesses who testified about the abuse allegations against the defendant. Watson, 370 S.C. at 72, 634 S.E.2d at 644. The Supreme Court held that "counsel articulated a valid reason for failing to object to the hearsay testimony" where that reason was that counsel "wanted to avoid the possibility that the prosecution would have shown the video of the victim talking about the sexual abuse." Id.

As with Watson, trial counsel had a “valid reason for employing a certain strategy [and] such conduct [should] not be deemed ineffective assistance of counsel.” Watson, 370 S.C. at 72, 634 S.E.2d at 644 (citing Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992)). Counsel testified he wanted to highlight the confidential informant and use the video to challenge the credibility of the state’s case. Trial counsel also testified that the State could argue it had a burden to prove Applicant’s knowledge, and to prove the possession with intent to distribute charge. Trial counsel was able to successfully secure a not guilty on the weapons charge and reduced charges by way of two lesser included verdicts from the jury, one of which was linked to the distribution charge. Not only was this not ineffective assistance, Applicant has not established any prejudice from trial counsel’s reasonable strategy.

Therefore, this Court finds Applicant has failed to meet his burden of proving counsel’s performance was deficient or that he was prejudiced thereby and, accordingly, finds this allegation is denied.

**Allegation #3, 4, 5:  
Jury Charges - Trafficking; Jury Charges – Relevance; and Jury Charges –  
Constructive Possession**

Applicant argues his trial counsel should have challenged the jury instructions for being overly broad, not relevant to the charges, and incorrect as to constructive possession. Applicant argues that because the jury required an Allen charge, it’s likely the confusion caused the jury to find him guilty.

Trial counsel testified he did not object because he did not see a reason to object. He did not find it unusual that the jury instructions gave the statute and then clarified. He also did not find the jury instructions to be harmful to his client. He believed any confusion in the instructions was more harmful to the state’s case. In this instance, the jury did in fact find

Applicant not guilty of the weapon charge and found him guilty of the lesser included charges in two instances.

The transcript shows the trial court charged the jury that the "State must prove beyond a reasonable doubt that the defendant knowingly sold, manufactured . . . and was knowingly in actual or constructive possession and knowingly attempted to become in actual or constructive possession of the powder cocaine and the crack cocaine." (Trial Tr. p. 473, l. 20 - p. 474, l. 4.) The trial court went on to charge that "[w]ith respect to possession, to prove possession the State must prove beyond a reasonable doubt that the defendant had both the power and the intent to control the disposition or use of the powder cocaine and/or the crack cocaine." (Trial Tr. P. 474, ll. 21-25.) The trial court's further charge of constructive possession is found on pages 475-476 of the trial transcript and does not differ from the law as outlined by the Court of Appeals in State v. Muhammed, 338 S.C. 22, 26-27, 524 S.E.2d 637, 639 (Ct. App. 1999):

Conviction of possession requires proof of possession, either actual or constructive, coupled with knowledge of its presence. State v. Hudson, 277 S.C. 200, 284 S.E.2d 773 (1981). "Actual possession occurs when the drugs are found to be in the actual physical custody of the person charged with possession. To prove constructive possession, the State must show a defendant had dominion and control, or the right to exercise dominion and control....Constructive possession can be established by circumstantial as well as direct evidence, and possession may be shared." Id. at 202-03, 284 S.E.2d at 774-75.

Applicant failed to present specific and compelling evidence that trial counsel committed either errors or omissions in his representation of the Applicant. Accordingly, this Court concludes Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. This Court also finds Applicant has failed to prove the second prong of Strickland: that he was prejudiced by trial counsel's performance.

7 JEM

All Other Allegations

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

CONCLUSION

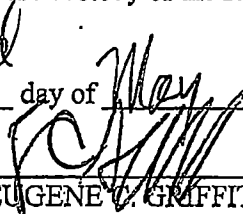
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations before or during his trial. Trial counsel was not deficient in any manner, and Applicant was not prejudiced by his representation. Therefore, this PCR application must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

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

**IT IS THEREFORE ORDERED:**

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

AND IT IS SO ORDERED this 3<sup>rd</sup> day of May, 2017.

  
 \_\_\_\_\_  
 EUGENE V. GRIFFITH, JR.  
 Presiding Judge  
 Eleventh Judicial Circuit

Lauriston, South Carolina.

WITNESSES

Lexington County Sheriffs Department

T Hodges

Law Enforcement Case #: 13005051

MDR

ARREST WARRANT NUMBER

2013A3210201216

ACTION OF GRAND JURY

**TRUE BILL**

Foreperson of Grand Jury

Date: 1/13/14

VERDICT

Foreperson of Petit Jury

**TRUE COPY**

Lex. Co. C.C.P., G.S. & F.C.

DOCKET NO. 2014GS3200155

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

JANUARY TERM 2014

THE STATE

vs.

Christopher Tywhun Wilson

CDR #: 0389

Indictment for

Trafficking in Crack Cocaine  
Between 28 and 100 Grams

§ 44-53-0375(C)(2)

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )

INDICTMENT FOR  
Trafficking in Crack Cocaine  
Between 28 and 100 Grams

§ 44-53-0375(C)(2)

At a Court of General Sessions, convened on January 2014, the Grand Jurors of Lexington County present upon their oath:

That **Christopher Tywhun Wilson** did in Lexington County, South Carolina between March 22, 2013 to June 14, 2013 knowingly, intentionally, willfully, and unlawfully sell, manufacture, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise, aid, abet, attempt, or conspire with **Samuel Derrell Sims** and/or **Brittany Nicole Jay** to sell, manufacture, deliver, purchase, or bring into this State; or was knowingly and intentionally in actual or constructive possession of or did knowingly and intentionally attempt to become in actual or constructive possession of **Crack Cocaine**, or Cocaine Base, a controlled substance by definition under the provisions of § 44-53-110, et. Seq. Code of Laws of South Carolina 1976, as amended, in a quantity of twenty-eight (28) grams or more but less than one hundred (100) grams, in violation of § 44-53-375 (C )(2), Code of Laws of South Carolina, 1976, as amended.

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

  
ASSISTANT SOLICITOR

ARREST WARRANT

2013A3210201216

STATE OF SOUTH CAROLINA

County/  Municipality of

Lexington

ORIGINAL

THE STATE 13005051  
against

Christopher T Wilson

Address: \_\_\_\_\_ Road  
Gaston, SC 29053-8604

Phone: \_\_\_\_\_ SSN: \_\_\_\_\_  
Sex: M Race: B Height: 5 11 Weight: 170  
DL State: SC DL #: \_\_\_\_\_  
DOB: \_\_\_\_\_ Agency ORI #: SC0320000

Prosecuting Agency: Lexington County Sheriff

Prosecuting Officer: T Hodges - 00256

Offense: Drugs / Trafficking in crack - 10 g or more, but less than 28 g - 1st offense

Offense Code: 0450

Code/Ordinance Sec: 44-53-0375(C)(1)

This warrant is CERTIFIED FOR SERVICE in the

County/  Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

6/15/13

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

Lexington County Judicial Center

205 East Main Street

Lexington, SC 29072

ORIGINAL C.C.P. ORIGINAL

STATE OF SOUTH CAROLINA

County/  Municipality of

Lexington

Personally appeared before me the affiant T Hodges who:

being duly sworn deposes and says that defendant Christopher T Wilson did within this county and state on or about 6/14/2013 violate the criminal laws of the State of South Carolina (or ordinance of  County/  Municipality of Lexington) in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in crack - 10 g or more, but less than 28 g - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 06/14/2013 while at \_\_\_\_\_ Rd. in the Gaston area of Lexington County, SC the defendant, Christopher Wilson, was in possession of approximately 13 grams of crack. The crack was found inside this house during the execution of a search warrant. The def. was present during the search warrant and lives at this address. Case number 13005051.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/  Municipality of

Lexington

Affiant's Address 521 Gibson Road

Lexington, SC 29072-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

it appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/14/2013 defendant Christopher T Wilson

did violate the criminal laws of the State of South Carolina (or ordinance of

County/  Municipality of Lexington) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in crack - 10 g or more, but less than 28 g - 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable Sworn to and subscribed before me

on 6/15/2013

Signature of Issuing Judge

Gary S. Morgan

Judge Code: 5041

Judge's Address 231 West Church Street

Batesburg, SC 29006-2103

Judge's Telephone (803)359-8330

Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL



STATE OF SOUTH CAROLINA

IN THE COURTS OF GENERAL SESSIONS

COUNTY OF Lexington
STATE VS.

INDICTMENT/CASE#: 2014GS3200155

Christopher T Wilson

A/W#: 2013A3210201216

AKA:

Date of Offense: 6/14/2013

Race: Black Sex: M Age: 39

S.C. Code § : 44-53-0375(C)(1)(b)

DOB:

CDR Code #: 0451

Address: Road

City, State, Zip: Gaston, SC 29053-8604

DL#: SID#:

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Drugs / Trafficking in cocaine base - 10 g or more, but less than 28 g - 2nd offense

in violation of § 44-53-0375(C)(1)(b) of the S.C. Code of Laws, bearing CDR Code # 0451
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

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

ATTEST: Solicitor Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 8 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: 2014GS3200152
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$

Payment Terms:
Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Rows include various surcharges 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), Proviso 47.9 (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), Proviso 90.5 (SCCJA Surcharge), 3% to County (if paid in installments), and TOTAL.

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

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

Clerk of Court/ Deputy Clerk Beth A Carrington
Court Reporter: Steve LeBlanc
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 2167
Sentence Date: 3/19/15

**WITNESSES**

Lexington County Sheriffs Department

T Hodges

Law Enforcement Case #: 13005051

MDR

**ARREST WARRANT NUMBER**

2013A3210201211

**ACTION OF GRAND JURY**

**TRUE BILL**

Foreperson of Grand Jury  
Date: 1/13/14

**VERDICT**

Foreperson of Petit Jury  
Date:

**A TRUE COPY**

Lex. Co. C.C.C.P., G.S. & F.C.

**DOCKET NO. 2014GS3200156**

**The State of South Carolina  
County of Lexington**

**COURT OF GENERAL SESSIONS**

**JANUARY TERM 2014**

**THE STATE  
vs.**

**Christopher Tywhun Wilson**

**CDR #: 0387**

**Indictment for**

Trafficking in Cocaine  
Between 10 and 28 Grams

§ 44-53-0370(e)(2)(a)

**DONALD V. MYERS, SOLICITOR**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF LEXINGTON )

INDICTMENT FOR  
 Trafficking in Cocaine  
 Between 10 and 28 Grams

§ 44-53-0370(e)(2)(a)

At a Court of General Sessions, convened on January 2014, the Grand Jurors of Lexington County present upon their oath:

That **Christopher Tywhun Wilson** did in Lexington County, South Carolina between March 22, 2013 and June 14, 2013, knowingly, intentionally, willfully, and unlawfully sell, cultivate, manufacture, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise, aid, abet, attempt, or conspire with **Samuel Derrell Sims** and/or **Brittany Nicole Jay** to sell, manufacture, cultivate, deliver, purchase, or bring into this State; or was knowingly and intentionally in actual or constructive possession of or did knowingly and intentionally attempt to become in actual or constructive possession of **Cocaine**, a controlled substance under the provisions of § 44-53-110, et. Seq. Code of Laws of South Carolina 1976, as amended, in a quantity of ten (10) grams or more but less than twenty-eight (28) grams, in violation of § 44-53-370 (e)(2)(a), Code of Laws of South Carolina, 1976, as amended.

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

  
 ASSISTANT SOLICITOR

ARREST WARRANT

2013A3210201211

STATE OF SOUTH CAROLINA

County/  Municipality of

Lexington

THE STATE 13005061

against

Christopher T Wilson

Address: [redacted] Road  
Gaston, SC 29053-8604

Phone: [redacted] SSN: [redacted]  
Sex: M Race: B Height: 5 11 Weight: 170

DL State: SC DL #: [redacted]

DOB: [redacted] Agency ORI #: SC0320000

Prosecuting Agency: Lexington County Sheriff

Prosecuting Officer: T Hodges - 00256

Offense: POSSESSION WITH INTENT TO DISTRIBUTE COCAINE

Offense Code: 0183

Code/Ordinance Sec: 44-53-0370(B)(1)

This warrant is CERTIFIED FOR SERVICE in the  
 County/  Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on 6-19-13

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:  
General Sessions  
Lexington County Judicial Center  
205 East Main Street  
Lexington, SC 29072, S.C. & F.C.

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/  Municipality of

Lexington

Personally appeared before me the affiant T Hodges who

being duly sworn deposes and says that defendant Christopher T Wilson did within this county and state on or about 6/14/2013 violate the criminal laws of the

State of South Carolina (or ordinance of  County/  Municipality of Lexington ) in the following particulars:

DESCRIPTION OF OFFENSE: POSSESSION WITH INTENT TO DISTRIBUTE COCAINE

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on 06/14/2013 while at [redacted] Rd. in the Gaston area of Lexington County, SC the defendant, Christopher Wilson, was in possession of approximately 9.65 grams of cocaine. The cocaine was found inside this house during the execution of a search warrant. The def. was present during the search warrant and lives at this address.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/  Municipality of

Lexington

Affiant's Address 521 Gibson Road  
Lexington, SC 29072-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/14/2013 defendant Christopher T Wilson

did violate the criminal laws of the State of South Carolina (or ordinance of

County/  Municipality of Lexington ) as set forth below:

DESCRIPTION OF OFFENSE: POSSESSION WITH INTENT TO DISTRIBUTE COCAINE

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 6/15/2013

Judge's Address 231 West Church Street  
Batesburg, SC 29006-2103

Signature of Issuing Judge

Gary S. Morgan

Judge Code: 5041

Judge's Telephone (803)359-8330

Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

AFFIDAVIT

Form Approved by  
E.C. Attorney General  
Apr 21, 2003  
SCCA 518

ORIGINAL

BAIL set by  
Judge SM  
on 6-15-13  
Type and Amount: 10K  
Name of Surety: SM

**PRELIMINARY HEARING held by**

Judge \_\_\_\_\_  
on \_\_\_\_\_  
Defendant Attorney: \_\_\_\_\_  
Decision: \_\_\_\_\_

**DISPOSITION before**

Judge \_\_\_\_\_  
on \_\_\_\_\_  
by \_\_\_\_\_  
(indicate jury trial, bench trial, plea, nol. pros., etc.)  
Disposition: \_\_\_\_\_  
Sentence: \_\_\_\_\_

**JURORS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WITNESSES**

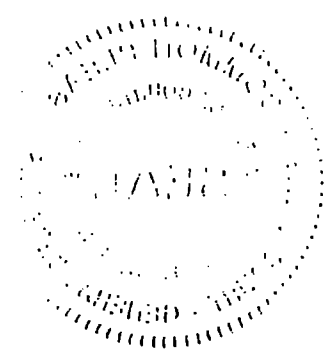
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
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Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**CODEFENDANTS**

\_\_\_\_\_  
\_\_\_\_\_



FILED  
2013 JUN 18 AM 9:18  
BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON, SC



J- 30 yrs and \$50,000

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington
STATE VS.

INDICTMENT/CASE#: 2014GS3200156

Christopher T Wilson

A/W#: 2013A3210201211

AKA:

Date of Offense: 6/14/2013

Race: Black Sex: M Age: 39

S.C. Code §: 44-53-0370(e)(2)(a)2

DOB: SS#: DL#: SID#

CDR Code #: 0387

Address: Road

City, State, Zip: Gaston, SC 29053-8604

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Drugs / Trafficking in cocaine, 10 g or more, but less than 28 g - 2nd offense

in violation of § 44-53-0370(e)(2)(a)2 of the S.C. Code of Laws, bearing CDR Code # 0387

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

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

for a determinate term of 8 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. 3 Days Credited

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 days/hours Public Service Employment

Total: \$ plus 20% fee: \$ Payment Terms: Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing

Recipient: Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund Other:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Det/Prob) \$500, § 14-1-212 (Law Enforce Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (DUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ca, Proviso 90.5 (SCGIA Surcharge) \$5, 3% in County (if paid in installments).

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

APRIL 16 2015 COURT REPORTER AND VIDEO SERVICE

Presiding Judge Judge Code: 2167 Sentence Date: 3/19/15

WITNESSES

Lexington County Sheriffs Department

T Hodges

Law Enforcement Case #: 13005051

MDR

ARREST WARRANT NUMBER

2013A3210201214

ACTION OF GRAND JURY

**TRUE BILL**

Foreperson of Grand Jury

Date: 1/13/14

VERDICT

Foreperson of Petit Jury

Date:

**A TRUE COPY**

Lex. Co. G.C.O.P., G.S. & F.C.

DOCKET NO. 2014GS3200157

**The State of South Carolina**

County of Lexington

COURT OF GENERAL SESSIONS

JANUARY TERM 2014

THE STATE

vs.

Christopher Tywhun Wilson

CDR #: 0186

Indictment for

Possession With Intent To Distribute  
Marijuana

§ 44-53-0370(b)(2)

**DONALD V. MYERS, SOLICITOR**



ARREST WARRANT

2013A3210201214

STATE OF SOUTH CAROLINA

County/  Municipality of

Lexington

THE STATE  
against

Christopher T Wilson

Address: \_\_\_\_\_ Road  
Gaston, SC 29053-8604

Phone: \_\_\_\_\_ SSN: \_\_\_\_\_  
Sex: M Race: B Height: 5 11 Weight: 170

DL State: SC DL #: \_\_\_\_\_

DOB: \_\_\_\_\_ Agency ORI #: SC0320000

Prosecuting Agency: Lexington County Sheriff

Prosecuting Officer: T Hodges - 00256

Offense: Drugs / Possession with Intent to Distribute  
Marijuana - 1st offense

Offense Code: 0186

Code/Ordinance Sec: 44-53-0370(b)(2)

This warrant is CERTIFIED FOR SERVICE in the  
 County/  Municipality of \_\_\_\_\_

The accused  
is to be arrested and brought before me to be  
dealt with according to the law.

(L.S.)

Signature of Judge

Date: \_\_\_\_\_

RETURN

A copy of this arrest warrant was delivered to  
defendant  
on 06-15-13

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions  
Lexington County Judicial Center  
205 East Main Street  
Lexington, SC 29072  
Lex. Co. C. C. J. C. O. P., C. S. & F. O.

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA )

County/  Municipality of )

Lexington )

Personally appeared before me the affiant T Hodges who

being duly sworn, deposes and says that defendant Christopher T Wilson

did within this county and state on or about 6/14/2013 violate the criminal laws of the

State of South Carolina (or ordinance of  County/  Municipality of Lexington)  
in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Possession with Intent to Distribute Marijuana - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit  
the crime set forth and that probable cause is based on the following facts:

That on 06/14/2013 while at \_\_\_\_\_ Rd. in the Gaston area of Lexington County, SC the defendant, Christopher Wilson,  
was in possession of approximately 42 grams of marijuana. The marijuana was found inside this house during the execution of a  
search warrant. The def. was present during the search warrant and lives at this address.

Signature of Affiant

STATE OF SOUTH CAROLINA )

County/  Municipality of )

Lexington )

Affiant's Address 521 Gibson Road  
Lexington, SC 29072-

Affiant's Telephone \_\_\_\_\_

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/14/2013 defendant Christopher T Wilson

did violate the criminal laws of the State of South Carolina (or ordinance of

County/  Municipality of Lexington) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Possession with Intent to Distribute Marijuana - 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or  
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as  
soon thereafter as is practicable  
Sworn to and subscribed before me

on 6/15/2013

Signature of Issuing Judge

Gary S. Morgan

Judge Code: 5041

Judge's Address 231 West Church Street  
Batesburg, SC 29006-2103

Judge's Telephone (803)359-8330

Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by  
S.C. Attorney General  
April 21, 2003  
SCCA 518

ORIGINAL

AFFIDAVIT

ORIGINAL



0-1yr and/or \$0-1,000

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington  
STATE VS.

INDICTMENT/CASE#: 2014GS3200157

Christopher T Wilson

A/W#: 2013A3210201214

AKA:

Date of Offense: 6/14/2013

Race: Black Sex: M Age: 39

S.C. Code § : 44-53-0370(b)(2)

DOB: SS#:

CDR Code #: 0186

Address: Road

City, State, Zip: Gaston, SC 29053-8604

SENTENCE SHEET

DL#: SID#:

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Drugs / Poss. of more than one ounce of marijuana - 2nd or sub. offense

in violation of § 44-53-0370(d)(2) of the S.C. Code of Laws, bearing CDR Code # 0180  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45 w/minor 1st or Lewd Act)

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

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

ATTEST: *Scott S* Solicitor *7868* SC Bar# Defendant *7868* Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 1 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: 2014 GS 32 00152  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered

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

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:		\$
§ 14-1-206 (Assessments 107.5%)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public-Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(f) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCIA Surcharge)	\$5	\$ 5
3% to County (if paid in installments)		\$
TOTAL		\$ 230

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

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

Presiding Judge: *[Signature]*  
Judge Code: 2167  
Sentence Date: 3/19/15

TRUE COPY  
Clerk of Court, Deputy Clerk  
Court Reporter  
SEC 21-1087010 G.P., G.S. & F.O.