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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable Robin B. Stilwell, Circuit Court Judge

MANUEL RASHON JETER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001206

APPENDIX

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1 STATE OF SOUTH CAROLINA }
2 COUNTY OF SPARTANBURG } IN THE GENERAL SESSIONS COURT

3 The State, }
4 -vs- } TRANSCRIPT OF RECORD
5 } 2015-GS-42-384;385;475
6 Manuel Rashon Jeter, }
7 Defendant. } April 1, 2015
8 } Spartanburg, South Carolina
9 }

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE
12
13

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

15 GEORGE MATTHEW KENDALL, ESQUIRE
16 Attorney for the State

17 E. JOSHUA SCHULTZ, ESQUIRE
18 Attorney for the Defendant
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20

21 Linda D. Moffitt
22 Circuit Court Reporter
23
24
25

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Guilty plea -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 MR. KENDALL: Your Honor, before the court is
2 Mr. Manuel Rashon Jeter on Indictment 2015-384, a true bill
3 for one count of trafficking of cocaine, a second offense
4 in excess of 28 grams but less than 100 grams; 2015-385 for
5 resisting, assaulting or beating a police officer while
6 serving process; and 2015-475, one count of possession of
7 less than one gram of ice, or in this case crack cocaine,
8 Your Honor.

9 He's pleading to these with a recommendation that this
10 serve as a cap of 20 years on all charges, Your Honor.

11 THE COURT: You are Manuel Rashon Jeter.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Mr. Schultz is your lawyer.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: How long has he been representing you?

16 THE DEFENDANT: Three months.

17 THE COURT: Have you had plenty of time to talk with
18 him about these cases, as well as your decision to plead
19 guilty to them?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Has he been over the indictments with you
22 and explained to you what the state claims that you did?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand it?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Has he explained to you what kind of
2 sentences could be imposed if you were convicted of each of
3 these offenses?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you understand it?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Have you told him everything you know
8 about the facts that relate to these allegations?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Did you and he discuss whether or not you
11 have some defense to any charge to which you are offering
12 to plead guilty?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you have a defense to any?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: What is your defense, and to which?

17 THE DEFENDANT: The victim that they say is pointing
18 my car out, she didn't do it. So probable cause for
19 arrest, stop was illegal search and seizure.

20 THE COURT: Okay. So you believe that you -- you
21 believe that the stop and the search and the seizure was
22 unlawful?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand that when you plead
25 guilty you give up your right to contest that search and

1 seizure?

2 THE DEFENDANT: No. I didn't know, but, yes, sir, now
3 I know.

4 THE COURT: All right. Is that what you wish to do?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You've discussed it with Mr. Schultz.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Did he also explain to you that you have a
9 right to remain silent?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You understand you don't have to say
12 anything. You don't have to answer any questions. You
13 don't have to testify in court if you don't want to about
14 these charges.

15 You always the right to remain silent and to require
16 the state to come into court with sufficient evidence to
17 establish your guilt to the satisfaction of a jury beyond a
18 reasonable doubt, and you don't have to help them in their
19 efforts to prove you're guilty by testifying or answering
20 questions that might tend to prove your own guilt.

21 But if you want to plead guilty you have to give up
22 your right to remain silent because I have questions that I
23 have to ask you in order to determine the voluntariness of
24 your decision and the fact that you understand the
25 consequences of that decision.

1 So do you understand your right to remain silent?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you wish to give it up in order to
4 plead guilty?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You also have a right to confront and to
7 examine witnesses in court. That just means you've got a
8 right to require the state to bring their witnesses into
9 court and put them on the witness stand and have them
10 testify in your presence under oath so you can see who they
11 are, you can hear what they have to say. And your lawyer
12 can examine them on their testimony. But when you plead
13 guilty that doesn't occur. But you understand you have
14 that right?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you wish to give that right up in order
17 to plead guilty?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Sir?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And you also have a right to have a jury
22 trial and to have 12 jurors decide if you're guilty or not.

23 If you elect to have a jury trial you help pick the
24 jury. Twelve are selected from a larger panel or pool.

25 Once those 12 are selected they sit over there in the jury

1 box. They listen to the testimony and consider the
2 evidence. From that evidence they decide the facts as they
3 relate to these allegations. Once they decide the facts,
4 they apply the law that I provided them, and they determine
5 whether or not you're guilty of any crime the state claims
6 you committed.

7 Before a jury can find you guilty of any crime all 12
8 jurors have to be convinced of your guilt beyond a
9 reasonable doubt. And as I think I told you, the burden is
10 on the state to convince them of that fact.

11 Do you understand your right to have a jury decide if
12 you're guilty or not?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand when you plead guilty
15 you give that right up? There won't be a jury trial.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And is that what you wish to do?

18 THE DEFENDANT: Can I ask my lawyer something, please?

19 THE COURT: Sure.

20 (Pause.)

21 THE COURT: Do you wish to give up your right to have
22 a jury trial?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Has anybody promised you anything that
25 caused to arrive at that decision?

1 THE DEFENDANT: No, sir.

2 THE COURT: Has anybody threatened you or put any
3 pressure upon you of any kind?

4 THE DEFENDANT: Yes, sir, kind of like -- no, sir.

5 THE COURT: Well, kind of like what?

6 THE DEFENDANT: Say about if I contest it I get a
7 maximum sentence.

8 THE COURT: Well, you mean the pressure you're under
9 is the fact that if you go to trial the state's not going
10 to be willing to make any recommendation in your case?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Well, you understand you still
13 have a right to go to trial. And if you were convicted the
14 sentence would be up to me.

15 (Pause.)

16 THE COURT: So you understand you still have a right
17 to have a jury trial.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you want one?

20 THE DEFENDANT: No, sir.

21 THE COURT: And the decision that you made, while you
22 might be under some pressure because you've got to make a
23 decision, my point is has anybody forced you into that
24 decision.

25 THE DEFENDANT: No, sir.

1 THE COURT: And you've made that decision on your own.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And are you satisfied with your decision?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Indictment 2015-384 charges you with
6 trafficking in cocaine.

7 The state alleges that on or about July the 9th of
8 2014 you did traffic in more than 28 grams of cocaine. In
9 other words, you did have in your actual or constructive
10 possession more than 28 grams of cocaine. Possession -- or
11 excuse me -- trafficking in more than 28 grams of
12 cocaine -- these will be -- these are second offenses?

13 MR. KENDALL: Yes, sir.

14 THE COURT: First offense carries not less than seven,
15 not more than 25. Second offense carries not less than
16 seven and not more than 30. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And they've agreed to recommend that you
19 not receive more than 20. In other words, that's the top
20 line. Rather than 30, they've agreed to a sentence of not
21 more than 20. But I can sentence you to anything between
22 seven and 20 if I go along with that recommendation. Do
23 you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: But do you also understand I don't have to

1 go along with any recommendation? I could sentence you up
2 to 30 if I thought it was appropriate.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: The trafficking that they allege occurred
5 on July the 9th, are you pleading guilty because you
6 committed the crime just as it is described?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Indictment 2015-385 also charges you with
9 a separate offense. It charges you with resisting arrest
10 and assault on a police officer.

11 They allege on July the 9th of 2014 that you did
12 knowingly and wilfully assault, beat or wound Officer
13 Bailey, a law enforcement officer of this state, while
14 resisting an arrest by assaulting the officer, you knowing
15 that he was an officer or reasonably should have known that
16 he was because he was in uniform and you should have known
17 he was an officer making a lawful arrest.

18 If convicted of assaulting an officer in the service
19 of process or while resisting arrest, carries a potential
20 sentence of up to ten years in jail.

21 Do you understand that charge and the potential
22 punishment?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you still want to plead guilty to it?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And the remaining indictment is 2015-475
2 which charges you with possession of less than one gram of
3 crack cocaine second offense.

4 They allege on September the 28th of 2014 you
5 possessed a quantity of crack cocaine. Simple possession
6 of crack cocaine second offense carries a sentence of up to
7 five years in jail.

8 Do you understand that charge and the potential
9 punishment?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you still want to plead guilty to it?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You're 30 years old.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: How far did you go in school?

16 THE DEFENDANT: G.E.D.

17 THE COURT: Are you married?

18 THE DEFENDANT: No, sir.

19 THE COURT: Do you have children?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you work?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Where?

24 THE DEFENDANT: For a temporary agency called Tosha
25 Recruiting [sic].

1 THE COURT: And what do you do?

2 THE DEFENDANT: Quality and special work for B.M.W. at
3 Plants Facia [sic] and at B.M.W. and Lear.

4 THE COURT: And how long have you done that?

5 THE DEFENDANT: Since 2013, like September.

6 THE COURT: And how long have you been in jail?

7 THE DEFENDANT: Since October 9th.

8 THE COURT: of 2014?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Listen to what the solicitor
11 tells me about the facts that relate to your charges.

12 MR. KENDALL: Your Honor, with respect to the
13 trafficking charge, this occurred on or about July 9th of
14 2014 in the area of Vanderbilt and Hilldale Street in
15 Spartanburg, South Carolina.

16 Officers were responding to that area in reference to
17 a domestic call. While there the individual who was
18 involved in the domestic call, the victim, pointed out a
19 car she believed was the vehicle that was the one that had
20 been involved in the altercation.

21 Officers got behind that vehicle. It appeared to be
22 taking kind of a detour around where the police were in the
23 apartment complex.

24 They executed a traffic stop at that time. They
25 approached the vehicle and smelled a scent of marijuana.

1 They got the defendant out of the car.

2 while they were patting him down a significant baggie
3 of cocaine fell from his pants. He picked it up and began
4 to run. Officers followed after him.

5 A fairly significant scuffle ensued, Your Honor. He
6 did over the course of that chase throw the marijuana --
7 excuse me -- throw the cocaine back at the officer hitting
8 him about the person. And he actually had to go to the
9 hospital on that and be tested for cocaine. He actually
10 tested positive.

11 The actual cocaine that was recovered turned out to be
12 approximately 75 grams worth of cocaine.

13 Your Honor, he does have a criminal record -- excuse
14 me -- with respect to the second offense for the
15 possession, this occurred on 9/28/2014. Officers executed
16 a traffic stop in the Henry Street area following some
17 erratic driving that swerved into a lane occupied actually
18 by the police officer.

19 They turned around and stopped the vehicle. The
20 defendant was an occupant of that vehicle. They got
21 consent to search the vehicle from the driver. They asked
22 that he step out. As he stepped out he stepped to the back
23 of the vehicle.

24 In the area where he was standing they located a small
25 baggie of cocaine base that actually, I think would be less

1 -- today is tested would be less than one gram. And there
2 wasn't anything else in that part that would indicate
3 possession with intent to distribute. That's why the state
4 reduced it from its original charge of PWID prior to
5 indictment.

6 He does have a criminal record, Your Honor, from 2003,
7 simple possession of marijuana; 2007, trafficking first
8 offense, possession of a weapon during commission of a
9 violent crime, failure to stop, unlawful carrying of a
10 firearm, Your Honor.

11 I believe that two of the officers involved in this
12 scuffle would like to address the Court at the appropriate
13 time.

14 THE COURT: All right.

15 OFFICER BAILEY: Yes, sir.

16 Just in reference to Mr. Jeter, I'd just like to say I
17 was not familiar with him before this incident. I got
18 acquainted with him after the chase when I actually went
19 hands on to effect the arrest.

20 He displayed a lot of aggression towards me before
21 aggression was displayed towards him fighting me and
22 grabbing at my neck and throat area.

23 Even after I told him to stop fighting with me, I
24 still hadn't struck him or anything like that. And he was
25 still wrestling with me and going for my face. Actually

1 tore my shirt up. This was after he threw a good amount of
2 cocaine into my face.

3 I did have to go to the hospital for that, and I was
4 actually positive for cocaine. That affected my military
5 career a little bit because I had went on active orders
6 just prior to that, just after that, and I was put on light
7 duty. And they were just kind of concerned that I was
8 going to be addicted to drugs, maybe to crack or cocaine or
9 something like that, and also just causing a lot of stress
10 on me as far as what was going to happen to me, military,
11 as far as them taking action towards me.

12 They didn't take any action because I was actually
13 covered by the -- by my job since it happened on incident.

14 But I'm just convinced that Mr. Jeter -- he wouldn't
15 change. He's very violent. He was violent towards me for
16 really no reason. If he would have had a weapon I know
17 this would have been a whole nother incident.

18 THE COURT: Okay. Thank you, sir.

19 OFFICER JOY: Your Honor, my name is Officer Joshua
20 Joy. I have dealt with Mr. Jeter twice now, both dealing
21 in narcotics.

22 I did not know Mr. Jeter at all before the stop. I
23 would just like to echo what Officer Bailey said that
24 Mr. Jeter has very violent tendencies. His criminal record
25 will show that. He has several narcotic arrests in his

1 past. He served time for those arrests, and he has not
2 changed his behavior one bit.

3 I firmly believe that if he had a weapon that night
4 that my partner might have been dead. I would like to ask
5 the Court to impose the maximum sentence that we have
6 offered. I appreciate it.

7 THE COURT: Thank you.

8 MR. KENDALL: Nothing from the state, Your Honor.

9 THE COURT: All right. Mr. Jeter, you've heard what
10 the solicitor told me about the facts that relate to your
11 case.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you agree that what he stated is
14 accurate and correct?

15 THE DEFENDANT: No, sir.

16 THE COURT: What do you disagree with?

17 THE DEFENDANT: I didn't throw cocaine on that
18 officer, sir.

19 THE COURT: You did not?

20 THE DEFENDANT: No, sir.

21 THE COURT: All right. Well, do you think -- you've
22 heard what they would testify to if your case did go to
23 trial. Do you think if your case did go to trial and they
24 presented that testimony to a jury that there's some
25 reasonable probability that a jury would find you guilty?

1 THE DEFENDANT: Based on the -- based on the incident
2 reports, yes, sir. But I don't think that a jury would
3 find me guilty because I don't think they had -- I know I
4 didn't throw cocaine on him. So I don't think he tested
5 positive for cocaine.

6 THE COURT: Well, do you think there's no chance that
7 a jury would find you guilty?

8 THE DEFENDANT: The jury may well find me guilty
9 though because they'd probably go with the state.

10 THE COURT: Okay. And so that's the reason you want
11 to go forward and plead guilty, to wrap everything up at
12 once rather than have separate trials on each of the
13 charges?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Okay. Anything else that you disagree
16 with that he told me?

17 THE DEFENDANT: No, sir.

18 THE COURT: All right. Do you still wish for me --

19 THE DEFENDANT: Yes, sir. I'm not a violent person,
20 sir.

21 THE COURT: I'm going to let you talk later, but I'm
22 just trying to find out now if you agree with the facts or
23 don't agree with the facts. And you've told me what you
24 disagree with.

25 He told me about your previous criminal history. Do

1 you agree or disagree with that recitation?

2 THE DEFENDANT: I agree.

3 THE COURT: All right. Do you still want me to accept
4 your plea of guilty?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. I'll accept your pleas of
7 guilty and hear from you and Mr. Schultz.

8 MR. SCHULTZ: Thank you, Your Honor. May it please
9 the Court.

10 Mr. Jeter has been my client for quite some time. We
11 talked at length about his -- his case several times. I
12 provided discovery to him at the jail, and we met several
13 times in the jail to go over this.

14 We actually had -- and, Your Honor, I'm not,
15 obviously, here to try, pretrial, hearing at this point,
16 but we actually had a very compelling, I believe
17 compelling, issue to present at pretrial as to what car the
18 original -- or the officers originally followed in this
19 case.

20 Our contention at trial would have been that probable
21 cause could not be established. But, at the same time, we
22 believe that they -- that they -- that probable-cause
23 argument may not have been entirely successful in front of
24 the Court.

25 Mr. Jeter actually brought that up to me. We looked

1 over discovery several times. We -- there are several
2 incidents in which Mr. Jeter found, as well as I found,
3 that there was a -- the result of this arrest. After
4 Mr. Jeter was arrested several people began gathering
5 around the arresting officers, and also Mr. Jeter as well.
6 And there was some arrests made at that night as well.

7 So it was an interesting case, but we felt that this
8 is probably in the best interest of not only Mr. Jeter but
9 also his family to accept this plea deal and move forward.

10 As I said before, Your Honor, he has family here.

11 Would all of those stand up appearing for Mr. Jeter
12 here.

13 And they wish to address the Court at the appropriate
14 time. And then I'd like to wrap up my presentation if
15 you'll like to hear from his family.

16 THE COURT: Okay. I'll be happy to if you want me to.

17 MR. SCHULTZ: All right.

18 THE COURT: All right. Tell me your name please,
19 ma'am.

20 JACQUELYN PRAYTOR: My name is Jacquelyn Praytor.

21 THE COURT: Jacquelyn Praytor.

22 JACQUELYN PRAYTOR: Praytor.

23 THE COURT: And what's your connection with Mr. Jeter?

24 JACQUELYN PRAYTOR: This is my nephew.

25 THE COURT: All right. What would you like to tell

1 me?

2 JACQUELYN PRAYTOR: I been knowing him all of his
3 life. He's never been violent. He's always helped me, did
4 things for me, I mean, like come over, cut my grass. I
5 mean, you know, he just helped me, did things for me.

6 He's never been violent. He's never tried to hurt
7 anybody. He's helped me with my kids, and they've looked
8 out for him. He cut my grass. He helped me with my dogs,
9 helped me.

10 If I needed something done around the house, he would
11 come. And if I needed to clean up, I mean, you know,
12 sometime I'm in the bed sick. He come over and look out
13 for me. And I appreciate for him. I done, you know,
14 helped him out. I been there for him all his -- all of his
15 life. I been knowing him all of his life.

16 I was in the room when he was born. So I know he's
17 not violent. Anything come up, he always come to me. So I
18 don't -- I don't understand how they could say that he --
19 they don't know him. I know him. I love him to pieces.
20 I'd go to hell -- excuse me -- and back for him.

21 I look out for him. He's always done, you know. I
22 don't who they talking about. But he's always been -- he's
23 had to look out for his brothers and sisters when they were
24 coming up. He got a job to help with the -- the bills at
25 his house, because his mom didn't. He has always tried to

1 look out for them. His brothers and sisters went to school
2 because he bought their clothes.

3 when he was 16 he got a job at Hardee's to help out
4 with the family because his mama didn't. We don't know
5 where his dad was.

6 So I -- we've always had each other. He's never been
7 violent. I mean, I don't know where anybody can say that
8 he got in a fight with this person, because he's always
9 been a little man. He's always tried to do what he could
10 to help. But then people are saying that -- I don't know
11 who they talking about. I don't know that person that
12 they're talking about, Your Honor.

13 THE COURT: Okay. Thank you, ma'am.

14 Your name is what name, ma'am?

15 JASMINE BYERS-YOUNG: Jasmine Byers-Young -- Jasmine
16 Byers-Young.

17 THE COURT: Spell your last name.

18 JASMINE BYERS-YOUNG: J-A-S-M-I-N-E.

19 THE COURT: Last name.

20 JASMINE BYERS-YOUNG: B-Y-E-R-S, hyphen, Young.

21 THE COURT: And what's your connection with Mr. Jeter?

22 JASMINE BYERS-YOUNG: He is the father of my child.

23 I'm about to have a baby in two months, and I just want him
24 to come home and be with me and help me raise my son.

25 That's it.

1 I have knowed him almost over two years, and he has
2 never did anything to me. We get into it, yes. Everybody
3 do that. But he has always helped me.

4 When I lost my job I was out of work for nine months.
5 He helped take care of me and my other daughter. He has
6 never been violent. I have never knew of him being violent
7 ever.

8 I don't know who they're talking about. I don't
9 understand. I don't get it.

10 I think he should be free. I want him to come home
11 and help me raise my son. That's all. I think my son
12 should be able to know his father and his other three kids
13 that he have. That's all. I just want him to come home.
14 That's it.

15 I been dealing with this my whole pregnancy. He been
16 gone the whole time I been pregnant. And this is very
17 stressful for me. I just want him to come home, please.
18 That's it.

19 THE COURT: All right. Thank you.

20 Your name is what, ma'am?

21 JATONI COATES: Jatoni Coates.

22 THE COURT: Jaconi?

23 JATONI COATES: Jatoni Coates.

24 THE COURT: Coates?

25 JATONI COATES: Yes, sir.

1 THE COURT: And what's your connection with Mr. Jeter?

2 JATONI COATES: I've known Mr. Jeter for 11 years.
3 He's the father of my three children -- two girls and boy.
4 My boy is nine months old.

5 He is a good person. He has made a lot of mistakes
6 that he needs to correct and fix. And, you know, I just
7 pray for him, and I just pray and hope that, you know,
8 y'all just be lenient and, you know, do whatever, whatever
9 you see. But, you know, he needs to be home with his
10 children and, you know, just be a father.

11 THE COURT: Thank you, ma'am.

12 Anything else?

13 MR. SCHULTZ: I don't believe we have anybody else,
14 Your Honor, but I would conclude my argument.

15 The difficult part with drug cases, as the Court knows
16 and also the state knows, is the mandatory minimums.

17 It is very difficult for a young man like this to get
18 sent to seven years, eight years, ten years, twelve years
19 for something like this at some -- such young ages.

20 The drug laws in this state, as well as every other of
21 the 49 states, as well as federal statutes, mandate that
22 people that possess drugs over a certain amount receive a
23 mandatory minimum sentence.

24 Drugs are a problem in this country. They continue to
25 be a problem in this country, but I believe that mandatory

1 minimums were put into place during the 80s when the crack
2 cocaine epidemic is not -- was not what it is now. And I
3 would ask you, Your Honor, to take that into consideration
4 in rendering a sentence here today.

5 I believe the statute allows me to advocate for
6 Mr. Jeter to go home on home detention. I believe he is a
7 good, very good, candidate for house arrest, and I think he
8 can do everything that he needs to do.

9 Your Honor, I know it's a lot to ask for you to place
10 Mr. Jeter on seven years of house arrest, but he has the
11 support of his family here today.

12 They constantly call my office all of the time. They
13 ask very important questions about his case, and they're
14 very concerned about him.

15 This is not somebody that doesn't have any support
16 network. He does have a support network. He does have
17 family on his side. And he's done everything in his power
18 to make this right.

19 He has been in jail since October, and that is quite
20 some time to be in jail. I think he's looked at his life
21 and determined that this is not where he wants to be in his
22 life at this point, potentially looking at up to a 20-year
23 sentence. We hope that it's a lot less than that. We hope
24 that it's home detention. But he could be looking at a
25 heck of a lot more.

1 Your Honor, as the family said, he never knew his
2 father. His mother is gone.

3 Your Honor, I have nothing but good things to say
4 about Mr. Jeter. He's always been probably one of the most
5 respectful clients I've ever had or encountered at the
6 jail, always asked the best of questions.

7 So I would ask again that he be sentenced to home
8 detention. And I know he can do it. Thank you, Your
9 Honor.

10 THE COURT: All right. Mr. Jeter, anything you want
11 to add to what's been said on your behalf?

12 THE DEFENDANT: Yeah. I want to apologize to Officer
13 Bailey for the scuffle -- for trying to elude them that
14 day.

15 THE COURT: On Indictment 2015-384 -- one other thing.
16 Mr. Schultz, did you go over with Mr. Jeter the fact
17 that the trafficking charge is classified as a violent
18 offense and a serious offense under the law?

19 MR. SCHULTZ: Yes, sir.

20 THE COURT: And does he understand the significance of
21 those classifications?

22 MR. SCHULTZ: Yes, he does.

23 THE COURT: And did you also explain to him it's
24 classified as a no-parole offense under the law?

25 MR. SCHULTZ: Yes, sir.

1 THE COURT: And he understands that?

2 MR. SCHULTZ: Yes, sir.

3 THE COURT: Is that true, Mr. Jeter?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: On Indictment 2015-384, that's the
6 indictment for trafficking in cocaine greater than
7 28 grams, second offense, Sentence of the Court is you,
8 Manuel Rashon Jeter, be confined to the South Carolina
9 Department of Corrections for a period of 15 years.

10 Give him credit for any time he's entitled to pursuant
11 to 24-13-40.

12 Indictment 2015-385, assaulting an officer while
13 resisting arrest, ten years.

14 Indictment 2015-475, possession of less than one gram
15 of crack cocaine second offense, five years.

16 Give him credit for any time he is entitled to
17 pursuant to 24-13-40.

18 END OF REQUESTED TRANSCRIPT OF RECORD
19
20
21
22
23
24
25

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 1st day of April 2015.

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

February 26, 2016

A handwritten signature in cursive script, appearing to read "Linda D. Moffitt", written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

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

MARUCEL RASHON JETER #322715

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2016-CP-42-0380

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 LIEBER CORR INST. P.O. BOX 205 RIDGEVILLE, S.C. 29472
2. Name and location of Court which imposed sentence GENERAL SESSION, SPARTANBURG, SC
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2015GS4200384
 - (b) 2015GS4200385
 - (c) 2015GS4200475
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) APRIL 1, 2015
 - (b) 15 yrs ; 10 yrs ; 5 yrs.

SPARTANBURG COUNTY
CLERK OF COURT
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M. HOPE BLACKLEY

- (c) CONCURRENT, VIOLENT
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty YES
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A
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. N/A
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. N/A
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. N/A
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. N/A
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) COUNSEL FAILED TO DO HIS DUTY AS DEFENDANT REQUESTED
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

CLERK OF DISTRICT COURT
STANTON COUNTY
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- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
 (b) PROSECUTORIAL MISCONDUCT
 (c) _____

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

- (a) SEE ATTACHMENT FACTS
 (b) SEE ATTACHMENT FACTS
 (c) _____

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

- (a) any petition in a State Court under South Carolina Law? 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. N/A
 iii. _____
 iv. _____

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

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

(c) the disposition thereof:

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

CLERK OF COURT
 SPARTANBURG COUNTY
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iv. _____

(d) the date of each such disposition:

i. _____

ii. N/A

iii. _____

iv. _____

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

i. _____

ii. N/A

iii. _____

iv. _____

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

NO

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

(a) which grounds have been presented:

i. _____

ii. NONE

iii. _____

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

i. _____

ii. N/A

iii. _____

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

(a) NO COUNSEL NEVER FILED APPEAL

(b) NO FIRST TIME ON P.C.R.

(c) _____

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

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SPRINGFIELD COUNTY
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M. HOPE BLANKLEY

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

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. ANDREW JOHNSON ESQUIRE - 184 N. DANIEL MORGAN AVE. SPTBG, SC 29306
 - ii. JOSHUA SCHULTZ ESQUIRE - 184 N. DANIEL MORGAN AVE SPTBG, SC 29306
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. PRELIMINARY HEARING
 - ii. PLEA, SENTENCING
 - iii. _____

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

NEW TRIAL

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

NO

CLAYTON COUNTY
SPRINGFIELD
2016 JAN 25 PM 3:53
M. HOPE BLACKLEY

5

STATE OF SOUTH CAROLINA)

County of RIDGEVILLE)

VERIFICATION

I, MANUEL SETER, 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.

Manuel Seter

SWORN to and subscribed before me this 30th
day of September, 2015

Luhean Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

CLERK OF COUNTY
SPARTANBURG COUNTY
2016 JAN 25 PM 3:53
M. HOPE BLACKLEY

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

I, MANUEL JETER, 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.

Manuel Jeter
Applicant

SWORN or affirmed to and subscribed before me this
30th day of September, 2015.

Leedean Bryant
Notary Public

My Commission Expires: May 26, 2020

CLERK OF COURT
CLAY COUNTY
2016 JAN 25 PM 3:53
M. HOPE BLACKLEY

7

IV

SUMMARY

9). Trial Counsel provided Ineffective Assistance of Counsel for the failure to investigate and discover the existence of the # 07-0242-14 incident report, and failure to investigate potential witnesses and/ or victims.

10). The State failed to disclose the contents of the # 07-0242-14 incident report, which was material to applicant decision to plead guilty.

11). And as a direct result of counsels failure to **Investigate**/ State failure to disclose- the # 07-0242-14 incident report, the guilty/plea was involuntary.

12). As the # 07-0242-14 incident report provides evidence that the reasons for the initial stop were a product of fabrication by police and this the initial stop was not support by probable cause or reasonable suspicion, but rather police used a post hoc- Rationalization to justify an illegal stop and arrest.

13). Had applicant been aware of the # 07-0242-14 incident report, he could have made a cogent argument to suppress the fruit of illegal stop/arrest as fruit of the poisonous tree **[REDACTED]** and not have plead guilty.

14). *Gibson v. State*, 513 Se2d 320 (1999) Held that state failure to provide evidence favorable to accused and material to guilt or innocence can render the guilty plea involuntary.

15). *Ard v. Catoe*- sets forth the standard of counsel duty to investigate the case.

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SPRINGFIELD COUNTY
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A. HOPE BLACKLEY

16). The States failure *to* disclose Tayvona Stinsons #07-0242-14 incident report rendered applicant decision to plead guilty, involuntary and counsel alternatively, should have investigated and discovered this incident report and pursuant, to *Ward v.Dretke* 420 F.3d 476, 488 (5th 2005) counsel should have made a motion to suppress the drugs based upon the facts contained in the incident report.

17). This case sets forth a violation of 4th, 5th, 6th, and 14th, amendment of the U.S. Constitution.

18). As set forth in the attached statement of facts this case must be remanded for a new trial.

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ATTACHMENT FACTS

On July 9th, 2014 at 8:31pm the applicant was illegally stopped in his vehicle based upon fabrications made by Officer Gioia of the Spartanburg Public Safety, Stating that at 8:30pm, He responded to an Assault and while speaking to the victim, she verbally identified the vehicle as a Chevy Malibu, then physically identified the vehicle by pointing to it and stating, "that is the car you're looking for." Basing probable cause to stop the car and detain/question the occupants thereof off the statement and positive identification made by Ms. Tayvona Stinson (throughout the entire proceedings the report from Ms. Stinson was never reviewed by defense) upon approaching the car Officer Gioia stated, he smelled the odor of unsmoked marijuana and therefore had probable cause to search the car. (No marijuana was Located). At that time the applicant asked was he under arrest, Officer Gioia said no. Applicant attempted to leave the scene at that point and a foot chase began. Drugs were found in vicinity as applicant.

After the guilty plea, it was 'discovered' that the Prosecution withheld the report from Ms. Stinson which would have contradicted the allegations made by Officer Gioia and prove the Officer fabricated the reports and made up incidents that never occurred. *Franks v. Delaware* 438 U.S. 154-57 L.Ed 2d 667 (1978) 98 a Supreme Court 2574, withholding the report from Ms. Stinson that would have afforded the defense with key material to challenge the State. The applicants case was remarkably weak and the states case remarkably stronger, and impacted trial counsel decision as to move for suppression of the fruits of the illegal detainment, arrest as based upon police Fabrication of reason for stopping applicant. Pur. *Franks v. Delaware*.

2016 JAN 25 PM 3:53
 M10PBL/KLE
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 SPARTANBURG COUNTY

FAILURE TO INVESTIGATE

If counsel, Joshua Schultz had Investigate this case, and done his duty, this defendant would not be in prison.

Bobby v. Van Hook, 558 U.S._____, 175 L.Ed. 2d 255,259 (2009)

American bar Association {ABA} Standard are to be used only as "Guides" in reviewing whether an attorney's performance is reasonable; Reversing a finding of deficient performance where the lower court treated the ABA's standard as "Inexorable Commands" that attorney's must "Fully Comply With".

United States V. Mooney 497 F3d 397, 404 (4th Cir.2007) Counsel in criminal cases are charge with the responsibility of conducting appropriate investigations; both factual and legal, to determine if matters of defense can be developed.

United States Ex Rel Cross V Derobertis 811 F2d 1008, 1016 (7th Cir.1987) Allegations of Ineffective Assistance centered on a supposed failure to Investigate must indicate what would have been obtained from the Investigations and whether such information would have produced a different result.

United states V. Barbour, 813 F.2d 1232,1234 (Dr.Cir.1987) It is especially important that counsel adequately investigate the case in order that at the very least he can provide minimally competent professional representation this case should be vacated and remanded for trial.

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M. HOPKINS
STARK COUNTY

FAILURE TO INVESTIGATE

Joshua Schultz failed in his duty as attorney by failing to investigate witness/victims testimony. Had he investigated this case he would have discovered that he only received partial evidence to creating a defense. He failed to review the reports from the officers. Had he done so, he would have discovered that there were missing reports, from the alleged victim. Had he performed a minimal investigation, he would have discovered that the officers made untrue statements to secure an arrest and the State withheld the evidence that would have challenge the prosecution.

FAILURE TO SUBPOENA WITNESSES

Mr. Schultz failed to subpoena the victim who would have testified that the statement from the officers claiming she named the car I was riding in and pointed to it, Had he subpoena the victim, the defense would have become stronger because without the victim there was no proof to challenge the claim made by officers.

FAILURE TO MOVE FOR SUPPRESSION OF EVIDENCE

After establishing lack of probable cause due to face statements by the officers by obtaining the missing reports. Suppression of the evidence would have been possible, due to ineffective counsel lack of investigating and failing to secure witnesses. This case had no defense which would have been well defended had Joshua Schultz performed his legal duty, as an attorney.

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SPRINGFIELD COUNTY
2016 JAN 25 PM 3:53
JIM HOPE BLACKLEY

CONSTRUCTIVE DENIAL OF COUNSEL

United States v. Cronin 466 U.S. 648, 658 –59 80 LED 2d 657 (1984) Presumption of prejudice applies when counsel entirely fails to subject the prosecutions case to meaningful adversal testing; where counsel is actually or constructively denied during a critical stage of the proceedings, or when there is various kinds of state interference with counsels assistance. Just as this case at Bar the prosecution withheld material that interfered with Joshua Schultz's assisting his client.

Jones v. Barnes 463 U.S. 745, 751, 77 L .Ed 2d. 987 (1983) The accused has the ultimate authority to make certain fundamental decision regarding the case, as to whether to plead guilty, waive a jury, testify in his own behalf, or take an appeal. Defendant was not afforded his rights because Joshua Schultz didn't prepare defense.

Short V. United States 471 f.3d 686, 692 (6th Cir. 2006) A defendant challenging his attorney's conduct during plea bargaining must show that counsel did not attempt to learn the facts of the case and failed to make a good faith estimate of a likely sentence. He must also show that his lawyers deficiency was a decisive factor, in his decision to plead guilty.

United States v. Nahodil 36 F.3d 323 (3D Cir. 1994) Ineffective assistance claim. Stated where counsel allegedly advised defendant to plead guilty despite defendant's repeated objections to doing so. Just as this case of Mr. Jeter. Remanded for new trial.

CLERK OF COURT
SANTA BARBARA COUNTY
2016 JAN 25 PM 3:53
M. HOPKINS
CLERK

FAILURE TO MOVE FOR SUPPRESSION OF EVIDENCE

If Counsel Joshua Schultz had moved to suppress the evidence in a hearing, defendants case would have been thrown out.

Ward v. Dretkt, 420 F.3d 479,488(5th Cir. 2005) Counsels failure to move to suppress evidence, when the evidence would have been suppressed if objected to, can constitute deficient performance.

United States v. Wood 879 F. 2d 927, 934 (D.C. Cir. 1989) To make out a claim on Ineffective Assistance related to an attorneys failure to move for suppression of evidence. The movant must show that the claim had merit and there is a reasonable probability that but for the excudable evidence the outcome would have been different.

FAILURE TO SECURE OR SUBPOENA WITNESSES

If Counsel had secured witnesses in this case, the outcome would have been different. *Sneed v. Smith*, 670 F.2d 1348 (4th Cir. 1982) remanded for an evidentiary hearing to determine whether counsel was Ineffective for failing to subpoena or call six witnesses whose testimony would have corroborated that someone else committed the crimes the defendant was charged with. This case at Bar, If counsel had Affiant on the stand and victim, it would have shown two [2] different stories.

M. HOPE-BLACKLEY

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CLERK OF COURT
SPRINGFIELD COUNTY

affiant told untrue reasons for the Grounds of arrest. Under § 17-13-50 this is perjury under oath to the judge.

PROSECUTORIAL MISCONDUCT

Had the State turned over "all" evidence, reports and statements in the case the defendant could have prepared a strong defense. The statements that were withheld were key documents, and they would have established a meaningful defense. For Lack of disclosing "Full" discovery the defense was Handicapped to not being able to defend the matter. Which is a violation to the 6th amendment (Being afforded a fair & speedy trial was violated by withholding key material that would've provided a defense. The 14th amendment was violated by not begin protected by the laws of due process.

Juan Smith v. Burl Cain Warden

10-8145 (1-10-12)

Due Process Bars a state from withholding evidence that is favorable to the defense.

Incident report from victim stating the make, model of the car and who was driving alone, the time frame in which incident took place, which are in contradiction to the officers allegations. Said incident reports are key material to the case but were missing from discovery.

Relief,
Guilty plea vacated

M. HOPKINS
BLACKLEY

2016 JAN 25 PM 3:53

CLERK OF COURT
SPARTANBURG COUNTY

(EXHIBIT A)

SPARTANBURG POLICE
SC0420100

INCIDENT REPORT

INFORMATION
ONLY

CASE NUMBER

07024214

43 NCIC
NO. ENTD
NO. NO

INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM					
1	16-03-0029 Assault/Asslt of high & aggravated nature AGGRAVATED ASSAULT			☒ YES ☐ NO	☐ YES ☒ NO	PARKING LOT/GARAGE	0	☒ Individual	☐ Business				
2				☐ YES ☐ NO	☐ YES ☐ NO			☐ Financial	☐ Governm				
3				☐ YES ☐ NO	☐ YES ☐ NO			☐ Relig On	☐ Soc / Pub				
								☐ Other	☐ Unknown				
								☐ Police Of					
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) 779 BALTIMORE ST, Spartanburg, SC						ZIP CODE 29306-	WEAPON TYPE MOTOR VEHICLE						
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK		DEPART TIME		LOCATION NO				
07/09/2014	20:30		07/09/2014	20:40	DISP. DATE	DISP. TIME	TIME ARRIVED						
					07/09/2014	20:43	20:51	21:00					
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE		
			#1	#2	#3								
ADDRESS					CITY	STATE	ZIP CODE	LOCATION NO.					
VICTIM'S NAME (LAST, FIRST, MIDDLE) STINSON, TAYVONA					RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
					#1	#2	#3						
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
505	120	1	2										
ADDRESS					CITY	STATE	ZIP CODE	LOCATION NO					
WINSMITH AVE					Spartanburg	SC	29306-	1					
VIOLENCE INJURY (VCT.1) ☐ YES ☐ NO ☐ EXPLAIN-					Minor					COMPLAINT OF ANY NON-VIOLENCE INJURIES: ☐ YES ☐ NO			
VICTIM (NO. 1) USING ALCOHOL ☐ YES ☐ NO ☒ UNK. ☐					DRUGS ☐ YES ☐ NO ☒ UNK. ☐					TYPE			
TWO MAN VEH. ☐ ONE MAN VEH. ☐ DETECTIVE/PLASMT. ☐ OTHER ☐					ALONE ☐ ASSISTED ☐					*J-This Jurisdiction. S-State. O-Out of State U-Unknown			
☒ SUSPECT	NAME (LAST, FIRST, MIDDLE) GIST, MARCUS				RACE	SEX	AGE	ETH	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR	EYES
☐ RUNAWAY					B	M	28	N		511	0	1	2
☐ WANTED	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.				RELATED OFFENSE(S) 13A				DAYTIME PHONE	EVENING PHONE			
☐ WARRANT													
☒ ARREST	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO					
☐ JAIL	HELEN ST				Spartanburg	SC	29306-	1					
☐ SUMMONS	SUBJECT (NO. 1) USING ALCOHOL ☐ YES ☐ NO ☒ UNK. ☐				ARRESTED NEAR OFFENSE SCENE ☐ YES ☐ NO ☐				DATE/TIME OF OFFENSE 7/9/2014 8:30:00 PM		DATE/TIME OF ARREST 7/16/2014 11:39:00 AM		
				TOTAL # ARRESTED 1									
DAY OF THE WEEK		HOW REPORTED		A= OFFICER DISPATCHED ON CALL		D= COMPLAINT WRITTEN IN		DIFF. FACTOR		A= RESISTANCE/HOSTILITY		E= COMPLAINANT FRE-QUENTLY INTOXICATED	
S M T W T F S				B= REPORT TAKEN BY PHONE		E= OFFICER INITIATED				B= WEAPONS		F= DOMESTIC	
				C= COMPLAINANT WALKED IN		F= OTHER				C= UNFOUNDED CALLS		N= NORMAL	
										D= MENTAL SUBJECT			
Original - Osswald, T													
On 07-09-2014 at approximately 2043 hrs I Officer Osswald was dispatched to 779 Baltimore St in reference to an assault. Upon arrival at approximately 2051 hrs I spoke to the victim Ms. Tayvona Stinson. Ms. Stinson stated that on 07-09-2014 at approximately 2030 hrs her ex-boyfriend Mr. Marcus Gist came over to 779 Baltimore St to give Ms. Stinson \$20. Ms. Stinson stated that when she walked to Mr. Gist's car (green Honda, 4 door) they began to argue. Ms. Stinson said at this point she attempted to lean on the window seal of the front driver's side where Mr. Gist was seated. As she was able to lean down Ms. Stinson stated that Mr. Gist started to drive off at a high rate of speed with her right arm caught in the car. While the car was in motion Ms. Stinson was able to free her arm from the vehicle suffering only a minor scratch on her right outer elbow. Ms. Stinson refused to give a written statement. I was able to take pictures of Ms. Stinson's injuries to her elbow she stated that she wasn't injured anywhere else. Pictures will be entered.													
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY						JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY							
TYPE (GROUP)						TOTAL VALUE							
STOLEN													
DAMAGED													
BURNED													
RECOVERED													
SEIZED													
SUBJECT IDENTIFIED		SUBJECT LOCATED		S F		☒ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 11			
☒ YES ☐ NO		☐ YES ☒ NO				☐ UNFOUNDED		☒ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND 0			
REASON FOR EXCEPTIONAL CLEARANCE		1 ☐ OFFENDER DEATH		2 ☐ NO PROSECUTION PROSECUTION		3 ☐ EXTRADITION DENIED		4 ☐ VICTIM DECLINES COOPERATION		5 ☐ JUVENILE NO CUSTOC			
REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		UNIT NUMBER			
Osswald, Timberly		7/9/2014 8:35:00 PM		0345									
FOLLOWUP INVESTIGATION ☐ YES ☒ NO						OFFICER							

ADDITIONAL NARRATIVE

Agency Name SPARTANBURG POLICE DEPARTMENT	ORI # SC0420100	Report Date/Time 07/09/2014 20:30	OCA # 07024214
--	--------------------	--------------------------------------	-------------------

Original - Osswald, T.

into evidence at City Hall (145 W Broad St). I will be seeking warrants for aggravated assault against Mr. Gist.

Reviewed by Sgt Reece 07-09-2014

CLERK OF COURT
SPARTANBURG COUNTY
2016 JAN 25 PM 3:53
M. HOPE BLACKLEY

NCIC	
INQ No	ENTD No

INFORMATION ONLY

INCIDENT TYPE					COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM		
1.	44-53-0370(a)(2)(b)1 "Drugs/Traf- cocaine 28g/more, to 100g 35A DRUG/NARCOTIC VIOLATIONS				YES NO	YES NO	HIGHWAY/ROAD/ALLE		Individual Business Financial Inst. Government Relg. Orgn Soc./Public Other Unknown Police Off.		
2	16-09-0320(A) Resisting/Resisting officer serv process 90N RESISTING ARRES				YES NO	YES NO	HIGHWAY/ROAD/ALLE				
3					YES NO	YES NO					
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER STREET NAME AND NUMBER) VANDERBILT RD & HILLDALE RD. Spartanburg, SC							ZIP CODE 29306-	WEAPON TYPE PERSONAL WEAPON			
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK	DISPATCH TIME	TIME ARRIVED	DEPART TIME	LOCATION NO		
07/09/2014	20:31		07/09/2014	20:31	07/09/2014	20:31	20:31	22:15	1		
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
ADDRESS					CITY	STATE		ZIP CODE	LOCATION NO.		
VICTIM'S NAME (LAST, FIRST, MIDDLE) CITY OF SPARTANBURG			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
EYES/CREST, ARTIFICIAL BODY PARTS AND AIDS/ART LEFT SHIN/MISSING LEFT LEG/BEARD, TATTOO/9/ARM, TATTOO/ARM											
ADDRESS					CITY	STATE		ZIP CODE	LOCATION NO		
COMPLAINANT OF ANY NON-VISIBLE INJURIES YES NO											
VICTIM NO 1) USING ALCOHOL YES NO UNK. DRUGS YES NO UNK. TYPE											
TWO MAN VEH ONE MAN VEH DETECTIVE/PLASMIT OTHER ALONE ASSISTED J-Tris Jurisdiction S-State O-Out of State U-Unknown											
NAME (LAST, FIRST, MIDDLE) JETER, MANUEL, RASHION RACE B SEX M AGE 29 ETH N DATE OF BIRTH HEIGHT 507 WEIGHT 215 HAIR BROW EYES BROWN											
WANTED FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC. DAYTIME PHONE EVENING PHONE											
WARRANT ADDRESS 135 METHODIST DR CITY Spartanburg STATE SC ZIP CODE 29306- LOCATION NO. 1											
JAIL SUBJECT NO 1) USING ALCOHOL YES NO UNK. ARRESTED NEAR OFFENSE SCENE YES NO DATE/TIME OF OFFENSE 7/9/2014 8:31:00 PM DATE/TIME OF ARREST 7/9/2014 11:22:00 PM											
SUMMONS DRUGS YES NO UNK. TYPE TOTAL # ARRESTED 2											
DAY OF THE WEEK HOW REPORTED A= OFFICER DISPATCHED ON CALL D= COMPLAINT WRITTEN IN DIFF FACTOR A= RESISTANCE/HOSTILITY E= COMPLAINANT FRE- QUENTLY INTOXICATED											
S M T W T F S UNK B= REPORT TAKEN BY PHONE E= OFFICER INITIATED B= WEAPONS F= DOMESTIC N= NORMAL											
C= COMPLAINANT WALKED IN F= OTHER D= MENTAL SUBJECT											
Original-Gioia											
On 07-09-2014 at 2031 hrs, I, Officer Gioia, and Officer Bailey were patrolling the area of Baltimore St. and Wofford St. located within the City limits of Spartanburg.											
While on patrol as a two man unit, we received a call from dispatch in reference to an assault that just occurred at a residence on Baltimore St. We were informed that a female was drug by a moving vehicle by a subject during an argument.											
When we arrived on scene, we spoke with the female who immediately stated that the subject that had just assaulted her left in a green Chevy Malibu. While we began to speak with her more about the incident, I noticed that a green in color Chevy Malibu (Spartanburg, SC) (XU 271) turn											
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY											
TYPE (GROUP) DRUGS/NARCOTICS TOTAL VALUE											
STOLEN 0 0											
DAMAGED 0 0											
BURNED 0 0											
RECOVERED 0 0											
SEIZED 0 0											
SUBJECT IDENTIFIED YES NO SUBJECT LOCATED YES NO S F ACTIVE ADM. CLOSED ARRESTED UNDER 18 EX-CLEAR UNDER 18											
REASON FOR EXCEPTIONAL CLEARANCE 1. OFFENDER DEATH 2. NO PROSECUTION 3. EXTRADITION DENIED 4. VICTIM DEQUIRES COOPERATION 5. JUVENILE NO CUSTODY											
REPORTING OFFICER(S) DATE UNIT NUMBER APPROVING OFFICER DATE UNIT NUMBER											
Gioia, Josh 7/9/2014 8:31:00 PM 0331											
Bailey, Adam D 7/9/2014 8:31:00 PM 0338 FOLLOWUP INVESTIGATION YES NO OFFICER											

01/12/2015 3 of 42

ADDITIONAL NARRATIVE

Agency Name SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI # SC0420100	Report Date/Time 7/9/2014 8:31:00 PM	OCA # 07024414
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left from Baltimore St. onto Cheetum Ln. The female we were speaking with pointed to the car and exclaimed that it was the vehicle we were looking for.

Officer Bailey and I got back into our patrol vehicle and drove onto Cheetum Ln in search of the car. We observed the vehicle drive slowly through the J.C. Anderson neighborhood. We searched the area for the vehicle and could not locate it immediately so we exited the complex and turned left onto Baltimore St. It was then that we observed the same vehicle (SC-JXU 271) exit the neighborhood the same way it came in (off of Cheetum Ln) and turn left onto Baltimore St. behind us.

I pulled into an empty lot to turn around, waited for the vehicle to pass us and pulled in behind it. The vehicle appeared to accelerate once it noticed that we had fallen in behind it. Because the vehicle matched the description of our assault suspects vehicle and it was in the very same area, I decided to conduct a traffic stop and field interview the occupants.

I activated the blue lights in my patrol vehicle and initiated the traffic stop at the intersection of Baltimore St. and Vanderbilt St. The Vehicle slowed a bit but did not stop. The vehicle then made a right hand turn from Vanderbilt Rd. onto Hillandale and coast to a slow stop in an empty parking lot across from Summerhill Park.

As I made my initial approach to the vehicle I could observed two African American occupants. The passenger was leaned back in his seat and I could see him repeatedly bend down towards the floorboards as if to hide or conceal something. I made my approach to the driver's side of the door as Officer Bailey approached the passenger side of the vehicle.

As I got to the window to the driver's side door, I could immediately detect an odor that I knew to be unsmoked marijuana. Officer Bailey detected the odor as well and stated to me on the radio that he could. As I spoke with the two passengers, advising them my reasoning for the stop, they appeared extremely nervous. The driver's hands shook as he handed me his ID, avoiding eye contact the entire time. I was able to identify the Driver as Mr. Jamaivius Leeante Pearson. The passenger was identified as Mr. Manuel Rashon Jeter.

Because of the odor of marijuana, combined with the occupants nervousness, I requested the driver step out of the vehicle and speak to me. He did so willingly. I asked Mr. Pearson if he had anything illegal on his person and he replied that he did not. I asked for consent to search his person and pockets and he gave verbal consent. During my search I located nothing.

I then requested Mr. Manuel Jeter step out of the vehicle and he did so willingly. I asked him if he had anything illegal on him and he replied that he did not. I then requested consent to search his pockets and person and he gave verbal consent for me to do so. During my search of Mr. Jeter, I felt a bulge inside his pants in the area of his upper thigh, but not in his pocket. He refused to spread his legs wide enough for me to effectively search. I asked him if he had anything in his pants several times and he replied back each time with a nervous sounding "no" (his voice cracked/wavered).

While I was conducting my search in the area of his legs and crotch, Mr. Jeter removed his hand from the car where I had asked him to place it while I searched him. He also repeatedly grabbed for his crotch area. It was then that I began to suspect that Mr. Jeter was concealing something within his pants.

Because the vehicle smelled like marijuana, I advised Mr. Pearson that I would be conducting a search of it the contents within it. I asked him if there was anything illegal inside of it and he replied that there was nothing. Because of the suspicious behavior of Mr. Jeter I thought best to place him in the rear of my patrol vehicle so he could not flee.

I advised Mr. Jeter that he was not under arrest and led him towards my vehicle. As I did so, a package fell out of his pants and he fled on foot towards Summer Hill Park. Myself and Officer Bailey gave chase of the suspect on foot. As we did, Mr. Jeter tore open the package that he was carrying and a cloud of white powder flew into the air. Large chunks of white substance hit the ground as Officer Bailey ran through the cloud of powder while still chasing Mr. Jeter.

As Officer Bailey caught up with Mr. Jeter, I veered off of that chase and took Mr. Pearson into custody. As I did, Officer Bailey began to struggle with Mr. Jeter, who was actively fighting and resisting arrest. I ran back towards Officer Bailey, but he had already taken Mr. Jeter into custody.

I focused my attention to the white powder and chunks of white substance that were all over the ground creating a trail from where he tore open the bag to where the bag was snagged and caught on a tree branch. I bent down to collect all of the items as Officer Bailey brought Mr. Jeter back to our patrol vehicle.

A group of females then came walking down the street towards us yelling and screaming. I was able to determine that they were family

SPARTANBURG
JAN 25 2015
4:3:53
M. HOPE D. MCALLEY

01/12/2015 4 of 42

ADDITIONAL NARRATIVE

Agency Name: SPARTANBURG PUBLIC SAFETY DEPARTMENT	ORI #: SC0420100	Report Date/Time: 7/9/2014 8:31:00 PM	OCA #: 07024414
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members of the two subjects. As they observed both individuals being placed into patrol vehicles they began to scream and cuss causing a loud commotion in the streets. Several officers had to respond to assist us in controlling the situation. (See report # 241)

After the group was controlled, I retrieved plastic baggies and again began to collect the white powder chunks, photographing the scene as I went. I brought back the white powder substance and field tested it using Voltox. The substance did test presumptively positive for Cocaine base. The white powder substance was weighed in three separate plastic baggies and totaled 93.0 grams (including the three plastic baggies).

Mr. Jeter was searched again to ensure safety before transporting him anywhere. In his front right pocket, I located 20 five dollar bills totalling to 100 dollars in U.S. currency.

EMS was called for an arrived on scene to treat Officer Bailey for the exposure he received pursuing and then fighting with Mr. Jeter. Mr. Jeter was also complaining of chest pain. Mr. Jeter was transported by EMS to SRMC, with Officer Cook riding in the ambulance with him. Lt. McDonald took Officer Bailey to SRMC in her patrol car.

Ace Towing Services were notified and arrived on scene to collect the Chevy Malibu and transport it to the Impound Lot at City Hall.

Mr. Pearson was transported to City Hall where Narcotic Investigators Bagwell and Secrest spoke to him.

As they spoke to Mr. Pearson, I began to enter all items retrieved in reference to this case into evidence. The items logged in were as follow: Three plastic baggies containing 93 grams of a white powder substance (best envelope number S161077), plastic baggies containing a white powder residue, a sum of U.S. currency, a pre-interrogation waiver form, and Officer Bailey's uniform shirt (which was torn and damaged during the fight).

After Mr. Pearson was done speaking with the Narcotics investigators, he was transported to the County Jail by Officer Edwards.

Mr. Jeter was admitted into the Spartanburg Regional Hospital for overnight treatment. Officer Bailey was treated and released.

Mr. Jeter has prior drug charges, including a trafficking charge and two possession charges. I will be speaking with a Judge in reference to this case.

Reviewed by Lt. McDonald 07-08-2014

CLYDE H. BLACKLEY
SPARTANBURG COUNTY
2016 JAN 25 PM 3:53
M. HOPE BLACKLEY

AGENCY: SPARTANBURG PUBLIC SAFETY
ORI #: SC0420100
Report Date / Time: 07:09/2014 20 31
Incident #: 07024414

Entered By: STACY N SMITH, on 7/10/2014 9:09:02 PM
 Jurisdiction: SC0420100
 Case Number: 07024414
 Supplement: No
 Source Table: RMS_Case

Title: SUPPLEMENTAL - BAILEY, A.

On 07-09-2014 while on patrol in the area of Baltimore Street and Wofford Street (within the city limits of Spartanburg), at approximately 2031 hours; myself along with Officer Gioia responded to a call for an assault as a two man unit. Upon our arrival we spoke to the victim Ms. Tayvona Stinson (refer to case number 07-0242-14). Victim advised us that her ex-boyfriend had just drug her with his car. Victim stated that the car was a green car. Moments later victim pointed out a vehicle and stated that it was the car. Myself and Officer Gioia then attempted to follow said car but were unable to locate it as it made abrupt turns onto several roads. Upon returning to the victim's house we observed a green Chevy Malibu (vehicle tag number JXU [REDACTED]) drive past us multiple times. Suspect vehicle turned into J. C. Anderson apartment complex and came back out behind our patrol car. Officer Gioia then turned into an empty lot and turned around on vehicle once it drove past. Vehicle then accelerated and made a left turn onto Vanderbilt Road. At this time we initiated a traffic stop on suspect vehicle. Suspect vehicle made a turn onto Hillendale and turned into the parking lot of a church. Upon approaching the vehicle Officer Gioia identified himself as Officer Gioia with Spartanburg City Police Department. Officer Gioia then explained to the driver of the vehicle that he was being stopped because his vehicle matched the description of a suspect vehicle involved in an assault. At this time I smelled a strong odor of marijuana coming from inside the vehicle. I relayed this information over to Officer Gioia via radio. Officer Gioia then stepped the driver and passenger out of the car. Both the driver and passenger were identified by their identification that they provided. Driver was identified as Mr. Jamaivius Pearson, passenger was identified as Mr. Manuel Jeter. After being stepped out of the car both Mr. Pearson and Mr. Jeter were patted down for weapons by Officer Gioia. While being patted down Mr. Jeter began to act nervous by continually moving and looking around. Passenger also kept dropping his right hand off of the car next to his right thigh despite my and Officer Gioia's verbal commands to keep his hands on the car. Officer Gioia completed his pat down and asked Mr. Jeter to turn around and face him. Officer Gioia then told both suspects that due to the odor of marijuana coming from the car he was going to conduct a search. He then told both suspects that they were going to be held in our patrol car while the search was conducted. While walking back to the car I saw a package dropped out of Mr. Jeter's shorts from the right leg. Mr. Jeter then picked up the package from the ground and began to flee the scene, at which time I gave chase. I chased Mr. Jeter across Hillendale and into the woodline. Upon entering the woods while in close proximity I observed Mr. Jeter tear apart said package and began to throw out copious amounts of a white powder substance into the woods. While chasing close behind Mr. Jeter said substance began to fly back into my face. I then tackled Mr. Jeter and attempted to detain him. Mr. Jeter began to fight with me by attempting to roll over and throw me off of him as well as continually trying to get off of the ground. I told Mr. Jeter to stop trying to fight me. Mr. Jeter continued to fight, getting off of the ground and up to his feet. Mr. Jeter attempted to run again at which time I grabbed him. Suspect began grabbing at my face and neck area at which point I took him to the ground for a second time. Due to suspect continuing to struggle with me, I punched him in his head and told him to give me his hands. Suspect then began to comply. Suspect stopped fighting and gave me his hands at which time he was cuffed and walked to the patrol car. Due to being exposed to white powder substance I called for an EMS unit to be dispatched to my location. I then passed suspect off to Officer Cook who arrived on scene shortly after I exited the woods. Myself and Officer Gioia went back in the area in the woods where I saw suspect throwing out white powder substance. We then began to recover white powder substance out of the woods. Soon after EMS arrived on scene, I spoke with EMS personnel who advised me that I needed to go to the hospital due to being exposed to and possibly inhaling the white powder substance. I was transported to Spartanburg Regional by Lieutenant McDonald where I was treated.

Nothing Further

Reviewed by Lt. McDonald 07-08-2014

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 01-25-2016 BY 60322
 SPARTANBURG COUNTY
 2016 JAN 25 PM 3:58
 M. HOPE BLACKLEY

MANUEL JETER
#322715
P.O. BOX 205
RIDGEVILLE, SC. 29472

49

JAN 19, 2016

CLERK OF COURT
P.O. BOX 3483
SPARTANBURGH, SC. 29304

RE: REQUEST CLOCK STAMPED COPIES OF PCR.

ATTENTION: CLERK OF COURT;

PLEASE FIND ENCLOSED,

- 1). PCR APPLICATION/BRIEF FOR PCR
- 2). EXHIBIT(S) FOR CASE NO. 2015GS 4200384/385/475
- 3). EXHIBIT A, INCIDENT REPORT NO. 07024214
ADDITIONAL NARRATIVE
- 4). EXHIBIT B, INCIDENT REPORT NO. 07024414
(2) ADDITIONAL NARRATIVE
(1) SUPPLEMENTAL REPORT

CLERK OF COURT
SPARTANBURGH COUNTY
2016 JAN 25 PM 3:53
M. HOPE BLACKLEY

THESE ENCLOSED DOCUMENTS ARE CASE SENSITIVE AND ARE
NEEDED TO ADEQUATELY PRESENT THE ABOVE CASE.
THANK YOU FOR YOUR ATTENTION TO THIS MATTER.

KIND REGARDS,

Manuel Jeter

MANUEL R. JETER V. SOUTH CAROLINA

POST- CONVICTION RELIEF

I

1). The applicant, Manuel R. Jeter, would Respectfully submit his Post-Conviction Relief Application that his conviction is in violation of 4th, 5th, 6th, and 14th Amendments to U.S. Constitution as well as S.C. Constitution that;

2). (*) Trial Counsel provided Ineffective Assistance of counsel for failing to investigate and discover incident report. # 07-0242-¹⁴~~00~~

(B) State failed to disclose evidence that was material to applicant decision to enter a plea to offenses.

(C) Guilty plea was involuntary.

II

PROCEDURAL HISTORY

1). Applicant was indicted for Trafficking Cocaine and other offenses 2015- GS - 42-000384, 000385 and 000475.

2). Applicant entered a plea of Guilty on April 1st 2015 and received an aggregate years sentence. No direct appeal was filed.

3). Post- Conviction Relief Filed.

A). Ineffective Assistance of Counsel.

B). Prosecutorial Misconduct.

CLERK OF COURT
SPARTANBURG COUNTY
2016 JAN 25 PM 3:53
M. HOSE BLACKLEY

III

SPERATIVE FACTS

4). Applicant vehicle was stopped on 7/9/14 by Officer Gioia at 8:31pm on the basis that Tayvona Stinson, had made a police report implicating applicant in a Domestic Assault upon her. Based upon this alleged police report, police pulled over,

5). Detained and attempted to arrest the applicant, Based upon drugs that were discovered during this stop. After review of the Evidence/ rules with counsel Joshua Shultz (esp) Applicant made a decision, Based upon evidence, to plead guilty to the offense to 15 years.

6). Upon incarceration applicant discovered incident report # 07-0242-14 that stated Tayvona Stinson did not contact police until 8:43pm some 12 minutes *After* applicant was detained and police did not come into contact with Ms. Stinson Til 8:51pm some 20 minutes *After* defendant was arrested.

7). Again, this report #07-0242-14 was not disclosed to the defense and was not considered by applicant in his decision to plead guilty.

8). This case is directly on point with *Kolle v. State* 690 Se2d. 73 (2010); *Gibson v. State* 513 Se2d. 320 (1999); *Riddle v. Ozmint* 631 Se2d. 70, (2006).

CLERK OF COURT
SPRINGFIELD COUNTY
2016 JAN 25 PM 3:53
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Manuel Rashon Jeter, #322715,	)	Case No.: 2016-CP-42-0380
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed on January 25, 2016, would respectfully show this Court:

I.

Manuel Rashon Jeter ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Spartanburg County. Applicant was indicted at the February 2015 term of the Spartanburg County Grand Jury for trafficking cocaine 28–100 grams, second offense, (2015-GS-42-0384), assault on a police officer while resisting arrest, (2015-GS-42-0385), and possession of cocaine base (2015-GS-42-0475). E. Joshua Schultz, Esquire, represented Applicant. On April 1, 2015, Applicant pleaded guilty as indicted before the Honorable J. Derham Cole. Pursuant to the State's recommended cap of 20 years on all charges, Judge Cole sentenced Applicant to imprisonment for concurrent terms of 15 years for trafficking cocaine, 10 years for assaulting an officer while resisting arrest, and five years for possession of a cocaine base. Applicant did not appeal his conviction or sentence.

Attached herewith and incorporated herein by reference are the records of the Spartanburg County Clerk of Court regarding the subject convictions, the transcript from

Applicant's guilty plea, and Applicant's records for the Department of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

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

1. "Ineffective Assistance of Counsel," in that:
 - a. Counsel failed to investigate and discover the existence of the #07-0242-14 incident report
 - i. Applicant's vehicle was stopped on the basis that Tayvona Stinson had made a police report implicating Applicant in a domestic assault upon her.
 - ii. Police pulled Applicant over, detained and attempted to arrest Applicant, based on drugs that were discovered during this stop. After review of evidence rules with counsel Applicant made a decision based upon the evidence to plead guilty to the offense to 15 years.
 - iii. Upon incarceration Applicant discovered incident report #07-0242-14 that stated Tayvona Stinson did not contact police until some 12 minutes after Applicant was detained and police did not come into contact with Stinson until some 20 minutes after Applicant was arrested.
 - iv. "As a direct result of counsel's failure to Investigate/State failure to disclose- the #07-0242014 incident report, the guilty/plea was involuntary
 - v. "As the #07-0242014 incident report provides evidence that the reasons for the initial stop were a product of fabrication by police and this the initial stop was not support by probable cause or reasonable suspicion, but rather police used a post hoc- Rationalization to justify an illegal stop and arrest
 - vi. "Had applicant been aware of the #07-0242-14 incident report, he could have made a cogent argument to suppress the fruit of illegal stop/arrest as fruit of the poisonous tree and not have pleaded guilty
 - vii. "Gibson v. State, 513 S.E.2d 320 (1999), Held that State's failure to provide evidence favorable to accused and material to guilt or innocence can render the guilty plea involuntary

- viii. “Ard v. Catoe sets forth the standard of counsel duty to investigate the case
 - b. Counsel failed to move to suppress evidence
 - c. Counsel failed to secure or subpoena witnesses
 - i. Counsel should have subpoenaed or called six witnesses whose testimony would have corroborated that someone else committed the crimes Applicant was charged with.
 - d. “This case sets forth a violation of 4th, 5th, 6th, and 14th amendment of the U.S. Constitution
2. “Prosecutorial Misconduct”
- a. “The State failed to disclose the contents of the #07-0242-14 incident report, which was material to Applicant's decision to plead guilty
 - b. “The State's failure to disclose Tayvona Stinson's #07-0242-14 incident report rendered Applicant's decision to plead guilty, involuntary and counsel, alternatively, should have investigated and discovered this incident report and pursuant, to Ward v. Dretke, 420 F.3d 476, 488 (5th 2005) counsel should have made a motion to suppress the drugs based upon the facts contained in the incident report.”

III.

Applicant’s allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668; Cherry v. State, 300 S.C. 115, 117,

386 S.E.2d 624, 625 (1989). The applicant “must first demonstrate that counsel was deficient and then must also show the deficiency resulted in prejudice.” Walker v. State, 407 S.C. 400, 404-05, 756 S.E.2d 144, 146 (2014). “The two-part test adopted in Strickland also applies to challenges to guilty pleas based on ineffective assistance of counsel.” Holden v. State, 393 S.C. 565, 572, 713 S.E.2d 611, 615 (2011).

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, he would not have [pleaded] guilty, but would have insisted on going to trial.” Thompson v. State, 340 S.C. 112, 116, 531 S.E.2d 294, 297 (2000).

Respondent submits that Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant also alleges that counsel failed to adequately investigate Applicant's case such

that he did not discover Tyvonna Stinson's police report. "[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Walker v. State, 397 S.C. 226, 235, 723 S.E.2d 610, 615 (Ct. App. 2012). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Wiggins v. Smith, 539 U.S. 510, 521-22 (2003). Because this allegation raises an issue of fact that the record does not conclusively refute, Respondent requests an evidentiary hearing to fully resolve this issue along with Applicant's other claims of ineffective assistance.

V.

Applicant alleges his guilty plea was involuntary. This allegation is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pleaded guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice

was not “within the range of competence demanded of attorneys in criminal cases.” Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one’s accusers. Id. Moreover, a criminal defendant entering a guilty plea “must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). A criminal defendant’s knowing and voluntary waiver of statutory or constitutional rights in a guilty plea “must be established by a complete record and may be accomplished by colloquy between court and defendant, between court and defendant’s counsel, or both.” Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000). When determining issues relating to guilty pleas, the Court will consider the entire record, including the transcript of the guilty plea and the evidence presented at the PCR hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

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

S.E.2d at 248.

VI.

Respondent interprets Applicant's allegations of prosecutorial misconduct as an allegation that he was denied the rights guaranteed by Brady v. Maryland, 373 U.S. 83 (1963). In evaluating post-trial Brady claims, Applicant must show that (1) the prosecution suppressed evidence, (2) the evidence would have been favorable to the accused, and (3) the suppressed evidence is material. United States v. Wolf, 839 F.2d 1387 (10th Cir. 1988). A Brady violation does not warrant reversal if the evidence is merely cumulative or impeaching. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993). "Impeachment or exculpatory evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." Id. To the extent Applicant alleges any other allegations of prosecutorial misconduct, such allegations are direct appeal issues, which are procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). The Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989).

Because Applicant's allegation that he was denied his rights under Brady v. Maryland may raise a question of fact that is not conclusively refuted by the record, Respondent requests an evidentiary hearing to fully resolve this issue.

VII.

Applicant also alleges infringement of the 4th, 5th, 6th, and 14th amendments of the United States Constitution. However, Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "specifically set forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50. In an application for PCR, Applicant must make at least a prima facie showing that would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965). Applicant has failed to make such a showing. Moreover, this allegation is so vague that it is impossible for the State to respond. Accordingly, the Court should dismiss this allegation for failure to meet the requirements of the Uniform Post-Conviction Procedures Act.

VIII.

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

IX.

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

X.

WHEREFORE, having made its Return, Respondent requests that a hearing be held on the claims of ineffective assistance, Brady v. Maryland, and involuntary guilty plea.

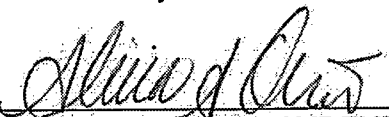
Respectfully submitted,

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By: 
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August 23rd, 2016

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
	)	
	)	2016-CP-42-0380
MANUAL RASHON JETER, #322715,	)	
	)	
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 by depositing same in the United States mail, postage prepaid:

Mr. J. Falkner Wilkes, Esquire
114 Whitsett St.
Greenville, SC 29601

DATED this 23rd day of August, 2016.



 Ashley Hawthorth, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF COMMON PLEAS
3
4 Manuel Rashon Jeter,)
5 Applicant,) TRANSCRIPT OF RECORD
6 -vs-)
7 The State,)
8 Respondent.) 2016-CP-42-00380
9
10
11 March 24, 2017
12 Spartanburg, South Carolina

13
14
15 B E F O R E:

16 HONORABLE ROBIN B. STILWELL, JUDGE
17
18
19

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

21 J. FALKNER WILKES, ESQUIRE
22 Attorney for the Applicant

23 VALERIE G. GIOVANOLI, ESQUIRE
24 Attorney for the Respondent
25

 Margaret A. Woods
 Circuit Court Reporter

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NO EXHIBITS INTRODUCED

MOTIONS AND MATTERS

1 THE COURT: Okay, we'll call to bar the case of Manuel
2 Rashon Jeter vs. the State a South Carolina, that is Case
3 Number 2016-CP-42-380. Uh, Ms. Giovanoli, I'd be happy to
4 hear from ya, ma'am.

5 MS. GIOVANOLI: Thank you, Your Honor. We're before the
6 Court on an application for post-conviction relief filed on
7 the January 25th 2016, applicant's presently confined, he was
8 indicted at the February 2015 term of the Spartanburg County
9 Grand Jury for trafficking cocaine twenty-eight to a hundred
10 grams second offense, um, that was 2015-GS-42-384; assault on
11 a police officer while resisting arrest, 2015-GS-42-385 and
12 possession of cocaine base, 2015-GS-42-475. Joshua Schultz
13 re -- a -- represented the applicant, on April 1st 2015
14 applicant pled guilty as indicted before the Honorable J.
15 Durham Cole. Pursuant to the State's recommended cap of 20
16 years on all charges, Judge Cole sentenced applicant to
17 imprisonment for a concurrent term of 15 years for trafficking
18 cocaine, 10 years for assaulting an officer while resisting
19 arrest and 5 years for possession of a co -- of cocaine base.
20 Applicant did not appeal his conviction or sentence, uh, S --
21 the State is present, ready to proceed, applicant is also
22 present and represented by Mr. Falkner Wilkes and I will hand
23 it over to counsel.

24 THE COURT: Mr. Wilkes.

25 MR. WILKES: I would just note that Mr. Schultz is not

MOTIONS AND MATTERS

1 here, ---

2 MS. GIOVANOLI: Oh, ---

3 MR. WILKES: --- um, ---

4 MS. GIOVANOLI: --- yes.

5 MR. WILKES: --- he was here earlier.

6 MS. GIOVANOLI: His file's right here (indicating), he
7 may ---

8 THE COURT: Okay.

9 MS. GIOVANOLI: --- just stepped out so . . .

10 THE COURT: Okay, you wanna call him first?

11 MS. GIOVANOLI: Um, ---

12 MR. WILKES: Um, I don't need to, ---

13 THE COURT: Okay.

14 MR. WILKES: --- I just wanted point out that he wasn't
15 here.

16 THE COURT: Okay. Alright, we'll make sure he gets here.

17 MR. WILKES: We will start with Mr. Jeter.

18 THE COURT: Okay. Mr. Jeter, if you wanna c'mon up, sir.
19 If you'll walk over here (indicating), place your left hand on
20 the Bible then raise your right.

21 (Whereupon, the applicant came forward.)

22 THE COURT: Place your left hand on the Bible, raise your
23 right.

24 MANUEL RASHON JETER, having been
25 first duly sworn, testified as follows:

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 THE COURT: Okay, have a seat please and if you will
2 state your full name for the record.

3 THE APPLICANT: Manuel Rashon Jeter.

4 THE COURT: Alright. Alright, Mr. Wilkes.

5 MR. WILKES: Thank you, sir.

6 DIRECT EXAMINATION BY MR. WILKES:

7 Q. Mr. Jeter, that tell me when you first met Mr. Schultz.

8 A. Uh, I was in the county incarcerated.

9 Q. Okay. And how long had you been in the county when you
10 first met him, do you recall?

11 A. Like a month or two.

12 Q. Okay. And he represented you on a nu -- number of
13 charges, the charges we're here for today, correct?

14 A. Yes, sir.

15 Q. Now when you met with Mr. Schultz, how many times do you
16 recall meeting with him?

17 A. Before before, um, April 1st?

18 Q. Yes, sir.

19 A. Maybe four.

20 Q. Alright, and describe those meetings.

21 A. Well one was the initial, uh, meetin' after I was or
22 after I retained him and; two, was bond motions, we went into
23 court for bond motions and then the third one was when he was
24 comin' prepared me for trial on April 1st.

25 Q. Okay, and so you went to trial on April 1st.

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 A. Yes, sir.

2 Q. Okay. Tell me how much of the case did you go over with
3 him prior to April 1st.

4 A. As as much I had knowledge of, sir, I had went over with
5 him.

6 Q. Okay. On April 1st tell me what happened.

7 A. Uh, he came to, he came to me and was like, Well we
8 fittin' go to trial after lunch so get ready to go to trial
9 and I was like, Well, did you get the victims and the
10 witnesses that we needed to have in able to prepare defense,
11 he was like no, ---

12 Q. Okay.

13 A. --- you know.

14 Q. On April 1st what -- had you met with him before that to
15 prepare for the trial on April 1st?

16 A. No, sir, only time I met with him was to do the bond
17 motions and the initial meetin' to to retain him.

18 Q. How long had you been in jail by April 1st?

19 A. Since October.

20 Q. So you're arrested and put in jail in October.

21 A. Yes, sir, I think October the 9th.

22 Q. Alright. Had you had a bond hearing before April 1st?

23 A. Yes, two.

24 Q. Okay. When was the bond hearing closest to April 1st?

25 A. Like two weeks prior.

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 Q. Okay. Now during that bond hearing did the State mention
2 that you would be going to trial two weeks later?

3 A. No, sir.

4 Q. Did Mr. Schultz tell you you could possibly be going to
5 trial two weeks later?

6 A. No, sir.

7 Q. Anybody tell you you might go to trial in two weeks?

8 A. No, sir, only time I was m -- only time trial was
9 mentioned to me was the day of when he came to me and was
10 like, We're goin' trial after lunch, they'll they'll be taking
11 you up to trial after lunch.

12 Q. Okay, and what happened after lunch? Did you, well how
13 long did you talk to him when he came to tell ya that?

14 A. Like twenty minutes 'cause I was tryin' to tell him that
15 he needed to call the people that we needed to have present.

16 Q. Okay. Are you you, are you saying that you asked him
17 specifically about witnesses?

18 A. Yes.

19 Q. And he responded how?

20 A. He was like, he didn't really respond, he was like, Well
21 this is what we got right here and we'll have to go with
22 this ---

23 Q. Okay.

24 A. --- and that was just the incident reports from the
25 officers and what the State was sayin' that was allegedly

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 said.

2 Q. Okay. And so after twenty minutes what happens?

3 A. I go back to the cell and they come and get me and dress
4 me out, bring me over here ---

5 Q. Okay, for for trial.

6 A. Yeah, but they didn't dress me for trial, they just put
7 me in a county orange and brought me over.

8 Q. Okay. Well if you're goin' to trial you would have
9 clothes for trial, wouldn't you?

10 A. Yes.

11 Q. Okay. Did you talk about getting clothes for a trial?

12 A. Yes, he told me that, um, I told him, he asked me who
13 could bring me some clothes and I told him that he'd have to
14 call one a my relatives and get her to bring me some clothes.

15 Q. And who did you tell him to call to get you some clothes
16 for trial?

17 A. My aunt.

18 Q. And is she here?

19 A. Yes.

20 Q. What's her name?

21 A. Jacqueline Prater.

22 Q. Okay. And she was supposed to bring clothes for trial?

23 A. Yes.

24 Q. Alright. What well well what happens when they pick you
25 up and take you to the courthouse, tell me what happened.

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 A. They picked me up, brought me to the courthouse and he
2 came in and he, when he came in he came in with a plea
3 agreement, he didn't have a, he didn't come to prepare for
4 trial, he came with a plea agreement.

5 Q. Okay. Alright, well what happened, tell me about the
6 plea agreement.

7 A. He was like, Okay, they they wanna give you this 30, uh,
8 if you go to trial, they'll give you 30 or life or you can
9 take this plea of 15 with a 20-year cap or sumtin' like that,
10 I was really discombobulated a little bit so I really wasn't
11 even fully graspin' what he was sayin'.

12 Q. Okay. Wa -- was there more than one plea offer?

13 A. Um, I'm thinkin' it was, ---

14 Q. Alright.

15 A. --- yeah.

16 Q. Okay, so were you dressed in, what were you dressed in at
17 that time?

18 A. Orange.

19 Q. Okay. They ever dress you out in clothes?

20 A. No, sir.

21 Q. Alright. The -- tell me about durin' the plea the judge
22 asked if you had any defenses and you said yes, ---

23 A. Yes.

24 Q. --- okay, how did you end up getting in fronta the judge
25 to start with, what did Mr. Schultz do to get you to stand up

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 in front of the judge for a guilty plea, how'd that happen?

2 A. He told me that if I was to go in here and not, he said
3 if I was to go in here and and plea that he would strive to
4 negotiate for me to get a 7-year house arrest sentence, ---

5 Q. Okay.

6 A. --- if I didn't plea, I'll get a life sentence because
7 I'll be goin' to trial with three strikes.

8 Q. Okay. Now did you have -- what was your prior -- you had
9 one prior conviction ---

10 A. Yes, but I had two, I had two separate charges pendin' so
11 I was under the impression that those woulda been three
12 strikes, one I already had convicted and then the two charge
13 woulda been two and three.

14 Q. Okay. Your prior trafficking conviction woulda been a
15 serious and that would be one strike, correct?

16 A. Presumably, yes.

17 Q. Okay. That's all you had that would be a strike at that
18 time, right?

19 A. Yes.

20 Q. Alright, so did you believe on that day that you coulda
21 been convicted under the LWOP statute and get life?

22 A. What is the L -- yes, I thought I coulda been con --
23 convicted and got life or 30 years.

24 Q. Okay. Alright, and so you ended up in front of the judge
25 to plead guilt.

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 A. Yes, sir.

2 Q. Did you talk about your challenge to probable cause with
3 Mr. Schultz that day?

4 A. Yes.

5 Q. Okay. Tell me what your conversation was about that.

6 A. I told him that the State couldn't have a re -- a
7 legitimate probable cause because the victim that they were
8 sayin' initially pointed to my car was, didn't didn't point to
9 my car, you know, they just like tried to blend it in whether
10 it was against me and I was tellin' Mr. Schultz that we got a
11 defense, can you investigate the witnesses and and and
12 interrogate her and like ---

13 Q. Right.

14 A. --- get to the bottom a this, can you help me, can you
15 aid me.

16 Q. And did you ask him to subpoena her for court?

17 A. Yes.

18 Q. And as far as you know did that happen?

19 A. No, sir.

20 Q. Now when you say "the victim," it's not a victim in your
21 case, correct?

22 A. No, sir, that I do -- I never knew her.

23 Q. Okay, this is a victim in a completely separate CDV case
24 down the street, right?

25 A. It's -- yes, but they were s -- they were sayin' that the

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 victim pointed to my car and said that I was, the car that I
2 was in was the car that assaulted her, uh, ---

3 Q. Right.

4 A. --- did sumtin' to her, yes.

5 Q. Right, and instead of calling her the victim, why don't
6 we say she's Ms. Stinson because she's not a victim in your
7 case, right?

8 A. Okay, yes, sir.

9 Q. Okay. She's she's sow -- shows up as a victim in the
10 police reports, ---

11 A. Yes.

12 Q. --- in her police report.

13 A. Yes.

14 Q. Okay, so tell me about this challenge to probable cause,
15 how did this come about? How did you discover that you had a
16 challenge to the search and the seizure, the traffic stop?

17 A. Okay, uh, when I had asked Mr. Schultz on his first
18 meeting with me can he get the, um, motion for discovery, can
19 he file for discovery and get a discovery for me ---

20 Q. Um-hum.

21 A. --- and he got the discovery and when I was readin'
22 discovery I I came upon readin' it that it said that, uh,
23 Ms. Tayvona, um, pointed to a car I was ridin' in and then
24 said, That's the car that ya'll are lookin' for, that's who
25 assaulted me, so that's what was goin' on.

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 Q. Alright, and that you later discovered that there were
2 actually more police reports, in particular a police report
3 from her CDV case.

4 A. Yes, ---

5 Q. Okay.

6 A. --- the the police report that I had from my discovery
7 was statin' that, um, Ms. Tayvona Stinson pointed to my car,
8 said it's a Chevy Malibu, that's the car that ya'll are
9 lookin' for, they assaulted me or did somethin' or whatever
10 [sic] and that's what happened, 'so that's what, that in my
11 discovery that's what my lawyer only had knowledge of.

12 Q. Okay. Now these are three police reports that are
13 attached to your application, correct?

14 A. Yes. Yes, sir, I have 'em up here ---

15 Q. Okay.

16 A. --- and I had, I had 'em listed as exhibits on my PCR
17 application.

18 Q. Okay. And the police report by Deputy Bailey
19 specifically says somethin' different than the police report
20 by Deputy I guess it's Giora.

21 A. Gioia I belie ---

22 Q. Gioia.

23 A. --- I believe.

24 Q. Gioia.

25 A. Yes, sir.

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 Q. Deputy Gioia which is different than the police report
2 for Ms. Stinson's case from Deputy Oswald, correct?

3 A. Yes, sir, it's three different incidents with three
4 different ---

5 Q. Okay, ---

6 A. --- current events.

7 Q. --- but Gioia, the officer that stopped you and the
8 reason for the stop that Gioia gives is because Ms. Stinson
9 said it was a green Chevy Malibu, correct, ---

10 A. Yes, ---

11 Q. --- that's what, ---

12 A. --- and she ---

13 Q. --- that's ---

14 A. --- positively ID'd it when she pointed to ---

15 Q. Right.

16 A. --- it and said, That is the car ya'll are lookin' for.

17 Q. So that is in Gioia's report, what you saw in discovery,
18 that was the basis' for pullin' the car you were in over,
19 correct?

20 A. Yes, sir.

21 Q. And you're you're in a, you're in a Chevy Malibu.

22 A. Yes, sir.

23 Q. Alright. And then you later discovered from
24 Ms. Stinson's CDV case which had nothin' to do with you,
25 correct, ---

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 A. Correct.

2 Q. --- that case the police report from Deputy Oswald
3 clearly says ---

4 A. That ---

5 Q. --- Ms. Stinson gave the information to her that it was a
6 Green Honda ---

7 A. Yes.

8 Q. --- and gave the name of her boyfriend that was drivin'
9 it, right?

10 A. Yes, yes.

11 Q. Okay. Now you've also seen the, Officer Bailey's
12 incident report that says somethin' different from that, ---

13 A. Yes.

14 Q. --- okay, and that they followed a, they tried to follow
15 a car that was pointed out, lost it, came back and then saw
16 you drive by or the car you were in drive ---

17 A. Yes, ---

18 Q. --- by ---

19 A. --- one, ---

20 Q. --- a couple of times.

21 A. --- yes, one report said that they lost the car and one
22 report said that we turned slowly into the projects and they
23 turned behind us and then we turned behind them.

24 Q. Uh-huh, but there's no question if you read Deputy
25 Oswald's police report from the other case this -- that

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 Ms. Stinson clearly told 'em it was green Honda and that her
2 boyfriend was drivin' and who that was.

3 A. Yes.

4 Q. Okay. Now how did you find that police report? Did you
5 ever get that police report before the day of trial?

6 A. Yes, I got it, uh, when they told -- when I found the
7 discovery and we got her name, I -- it was just that by chance
8 that I told somebody that could you see if you can pull up on
9 Facebook maybe because, you know, see if you can find her on
10 Facebook, everybody has Facebook, so they pulled up on
11 Facebook and we asked, well they aksed 'cause I was in jail,
12 they asked her like did this happen and this happen and this
13 happen because even though they mention her incident report in
14 my case they never disclosed it to us, we never ---

15 Q. Right.

16 A. --- had knowledge of it until we confronted her and when
17 she -- well when she was confronted she she said, No, I didn't
18 do that, I didn't say that, I can give ya'll my incident
19 report, ---

20 Q. Right.

21 A. --- so when she gave the incident report to my family
22 that and they gave it to Mr. Schultz and he brought it to me,
23 um, it was, he said that, Okay, this incident report is the
24 incident report that they were namin' but it was missin' so I
25 told him like, Mr. Schultz, can you investigate this and can

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 you talk to her, can you interrogate her ---

2 Q. Um-hum.

3 A. --- because the probable cause now is in question because
4 there's no probable cause now.

5 Q. Hugely in question.

6 A. Hugely in question.

7 Q. Okay. And you asked him to talk to Ms. Stinson and and
8 verify that she did not say that some green Chevy Malibu,
9 correct?

10 A. Yes, sir, I asked him.

11 Q. Okay, alright. Now, alright, so now you are sitting in
12 the jail and he comes and says you're going to trial today.

13 A. Yes.

14 Q. Okay. And you end up in front of judge on a plea. Now
15 the judge during the plea of course asks you numerous
16 questions to make sure that you're comfortable pleading
17 guilty, not necessarily comfortable but you're doing it
18 intelligently and freely, right? During the plea the judge
19 asked you, Do you have any defenses, and wha'd you say?

20 A. I told him yes, I had the victim, well not victim,
21 Ms. Stinson, I had Ms. Stinson that she was clearly refutin'
22 everything that was said in my incident reports and in my
23 case, like it was a contradiction between what she said on her
24 incident report and what the incident report that we had in my
25 discovery was.

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 Q. Okay. And why did you tell the judge that?

2 A. I was scared, I didn't, because I wasn't prepared for a
3 trial, I didn't have, I didn't have nothin' like as I, while I
4 was in prison I did investigative work on my own behalf and I
5 found out that it was motions that were supposed to be filed
6 and thinkin' back on it it was none a those were filed and I
7 didn't have a defense because Mr. Schultz was only sayin' like
8 well it could have been, it could have been without even
9 interrogatin', you know, Ms. Stinson so I didn't even have a
10 defense from my attorney when I was told and I told the judge
11 that I had a defense, it was only because of what I felt in my
12 gut that was not right with the case bein' on its own, not
13 become -- not from anything that Mr. Schultz had done.

14 Q. The questions that the judge asked, the judge went on to
15 ask you some other questions about understanding your rights
16 and you you said you understood that you were waiving certain
17 rights, you you understood things, but when the judge asked
18 you about knowing that you would be giving up your right to
19 challenge the search and the seizure you you said no.

20 A. Yeah, ---

21 Q. He asked ---

22 A. --- because ---

23 Q. --- if you ---

24 A. --- I didn't know ---

25 Q. --- understood ---

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 A. --- I was ---

2 Q. --- that ---

3 A. --- givin' up my right, I thought that me and Mr. Schultz
4 woulda been able to come in here and explain what was goin' on
5 to the judge and maybe get a continuance to track Ms. Stinson
6 down and bring her forward, uh, to go about buildin' the
7 defense around the the malpractice of the police.

8 Q. Okay. And so your answer was no, I didn't know.

9 A. I c -- because I didn't, I was not aware of it.

10 Q. And and then you said, But yes, sir, now now I know.

11 A. Because he was tellin' me right then that I was waivin'
12 my right so, yeah, I I I didn't know but once he said it I
13 wa -- it all -- it was brought to my attention, I was aware of
14 it, I didn't know, I was aware that this what he was sayin'.

15 Q. Now the judge went on though and asked you more questions
16 and and he said, Alright, is that what you wish you to do, and
17 you said, Yes, were you sayin' -- why why why did you say yes?

18 A. I was thinkin' that he was askin' did I wanna make my
19 challenges ---

20 Q. Okay.

21 A. --- brought to the Court but I was not, my lawyer didn't,
22 was not prepared for to bring the challenges, only thing we
23 coulda did was plea or go to trial and I get convicted for the
24 maximum of it ---

25 Q. And ---

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 A. --- which I thought was a life sentence.

2 Q. --- you continued on and the judge asked you some more
3 questions, if you understood certain rights and and you
4 answered those questions but when the judge got down to the
5 point where he said, Do you understand when you plead guilty
6 you give up that right, uh, there won't be a jury trial, you
7 said, Yes, sir, and when he said, Is that what you wish to do,
8 you you stopped and said, Can I ask my lawyer somethin'?

9 A. Yes, because I was askin' my lawyer then like he askin'
10 us can we go to trial, why aren't we goin' to trial, why are
11 you makin' me plea now?

12 Q. Alright, and what was, what was ---

13 A. He ---

14 Q. --- the response?

15 A. --- he said, If you don't plea you'll get life, I'm a try
16 to get you house arrest.

17 Q. Okay. And so you continued on through the plea and when
18 the judge asked, Do you wish to give up your right to have a
19 jury trial, you then said, Yes, sir.

20 A. Yes, because Mr. Schultz said, I'm a get the judge to
21 give you a 7-year house arrest sentence.

22 Q. But did you believe that you woulda been exposed to life
23 that day?

24 A. Yes, sir, because I had, I already had a prior conviction
25 and I had two separate charges that I would've probly been

MANUEL RASHON JETER - DIRECT EXAMINATION BY MR. WILKES

1 goin' to trial for on two different, you know, two trial for
2 this charge and a trial for this charge so it a been strike
3 two and strike three.

4 Q. Okay. And if if you had been aware on that day that
5 Ms. Stinson was there, if you'd been aware that Officer Oswald
6 was there to testify or Officer Bailey who contradicted the
7 things that Officer Gioia said, would you still have pled
8 guilty if you knew that those witnesses had been subpoenaed
9 and were there to testify?

10 A. No, sir, I would not have.

11 Q. And prior to that day you did not know that you would be
12 goin' in court to plead or for for a trial?

13 A. No, sir, it was, it was to my knowledge that the next
14 time we was goin' to court it would be to get my bond
15 reinstated ---

16 Q. Okay.

17 A. --- because that's the only thing that me and Mr. Schultz
18 would ever discuss was gettin' a bond reinstated and to see if
19 he can do some investigative work on this witness, uh, to to,
20 you know, to aid in my defense.

21 Q. Okay, very good, nothin' further of this witness, Your
22 Honor.

23 THE COURT: Alright, cross-examination, ma'am.

24 MS. GIOVANOLI: Thank you.

25 CROSS-EXAMINATION BY MS. GIOVANOLI:

MANUEL RASHON JETER - CROSS-EXAMINATION BY MS. GIOVANOLI

1 Q. Good afternoon.

2 A. Good afternoon.

3 Q. Okay. Okay, um, didn't you -- you were placed under oath
4 at your guilty plea hearing, weren't you?

5 A. Yes.

6 Q. And do you recall when the judge asked you, Have you had
7 plenty of time to talk with, uh, your lawyer about this case
8 as well as your deciser -- decision to plead guilty to the
9 charges you responded, Yes, isn't that correct?

10 A. Yeah, I, um, I probly said yes because Mr. Schult [sic]
11 was tellin' me that answer the questions to the judge so,
12 yeah, that we can get the plea and I can negotiate for you a
13 7-year plea, let's not make him upset.

14 Q. Okay, so then you weren't telling the truth?

15 A. No, ma'am, I was not.

16 Q. Okay, so even though you were under oath you weren't
17 telling the truth.

18 A. No, I was just goin', I was, I was answerin' to my, uh,
19 advisor's, you know, request. I was requestin', I was under
20 the impression that I was answerin' for my, uh, from my, um,
21 attorney I was advised that, you know, answer like that so I
22 could get the 7-year plea that you know.

23 Q. Okay, so I understand that, so that wasn't the truth,
24 your response yes, sir, was not the truth.

25 A. No, ma'am.

MANUEL RASHON JETER - CROSS-EXAMINATION BY MS. GIOVANOLI

1 Q. Okay, and you realize you're under oath today as well.

2 A. Yes, ma'am.

3 Q. Okay, and you're telling the truth today?

4 A. Yes, ma'am.

5 Q. Um, were you aware of the State's offer in this case for
6 a guilty plea?

7 A. Um, Mr. Schultz said it was he could get -- he was, he
8 was gonna, he s -- no, he said it was 20 years, a 20, yeah, a
9 20-year cap I think, that was the plea.

10 Q. Okay, he gave you the option to accept or reject that,
11 correct?

12 A. My Mr. Schultz?

13 Q. Yes.

14 A. No, he just told me, he told me that accept this plea but
15 I'm a gonna negotiate around it so I can get you the 7 years
16 house arrest.

17 Q. Okay, so your testimony is that he made you accept the
18 plea?

19 A. Yes.

20 Q. Okay, so it wasn't your choice to plead guilty.

21 A. No, ma'am, it was not.

22 Q. So when the judge asked you if you were entering your
23 guilty plea freely and voluntarily, you responded yes, that
24 was a lie.

25 A. Yes, ---

MANUEL RASHON JETER - CROSS-EXAMINATION BY MS. GIOVANOLI

1 Q. Okay.

2 A. --- it was because Mr. Schultz had already groomed me
3 before we came in to answer the question so that we could get
4 the plea and I can negotiate for you to get the 7 years house
5 arrest.

6 Q. Okay, and then do you recall, um, that the two officers,
7 uh, had testified, uh, during your guilty plea as to the facts
8 of this case, do you recall that testimony ---

9 A. No, ma'am, I do not.

10 Q. --- about what happened when you were pulled over and you
11 fled on foot, you don't recall the facts being presented to
12 the Court.

13 A. Uh, not not to my recollection, could you read it over to
14 me?

15 Q. Sure. With the Court's indulgence.

16 THE COURT: Yes, ma'am.

17 (Pause.)

18 Q. Okay, Officer Bailey, I'm not gonna read verbatim but he
19 testified that he was not familiar with you prior to the
20 incident, uh, that you displayed a lot of aggression towards
21 them after they had stopped you, um, you were fighting him,
22 grabbing at his neck and his throat area, um, he told you to
23 stop fighting with him, you, the cop never struck you, s --
24 he -- you were wrestling with him and going after his face and
25 as you ran, you, uh, you threw a good amount of cocaine into

MANUEL RASHON JETER - CROSS-EXAMINATION BY MS. GIOVANOLI

1 the officer's face, um, he went to the hospital later and that
2 was the testimony from Officer Bailey and then Officer Gioia,
3 Gioia which I think is Gioia, um, testified that he also
4 didn't know you prior to the stop and that he also testified
5 to your violent tendencies and your criminal record, um, and
6 he was present that night, that day and he believed firmly
7 that if you had a weapon that, uh, his partner woulda been
8 dead and the jud -- the Court then asked you if you agreed
9 with those facts and you didn't agree, is that correct

10 A. No, I did not agree.

11 Q. Okay, and what things did you not agree with?

12 A. I didn't agree with any of it but I was strivin' to just
13 get the plea so I can get the 7 years and not upset Your
14 Honor, you know.

15 Q. Okay, well a, uh, to the, to the judge you told him the
16 two things you didn't agree with were throwing cocaine in the
17 officer's face, is that correct?

18 A. Yes.

19 Q. And you didn't agree that you were a violent person, is
20 that correct?

21 A. Yes, ma'am.

22 Q. With the rest you agreed.

23 A. No, ma'am, I did not.

24 Q. A -- you actually did during the guilty plea hearing, um,
25 your response to the Court's question, Do you agree that what

MANUEL RASHON JETER - CROSS-EXAMINATION BY MS. GIOVANOLI

1 what was stated as accurate and correct, your response was,
2 No, sir, and the Court asked you, What do you disagree with,
3 and you re -- your response was, I didn't throw ca -- cocaine
4 on that officer, and then the o -- court asked you, Do you
5 think you've heard what they would testify to if your case did
6 go to trial, do you think if your case did go to trial and
7 they presented that testimony to a jury that there's some
8 reasonable probability that a jury would find you guilty, and
9 you stated that based on the incident report that you would be
10 but you didn't think the jury would find you guilty because
11 you didn't think, uh, you didn't know -- you know you didn't
12 throw cocaine on the officer, so you didn't think that the
13 officer po -- tested positive for cocaine, and then the Court
14 asked you -- one moment, I don't wanna read anything
15 unnecessary, and then you proceeded to say on line 19, Yes,
16 sir, I'm not a violent person, sir, and those were the only
17 two things that you disagreed with during your plea hearing,
18 is that correct?

19 A. Yes, ma'am.

20 Q. Okay. Furthermore, on page 25, line 2 of the transcript
21 you actually made a statement expressing remorse, that's line
22 12, you stated, Yeah, I want to apologize to Officer Bailey
23 for the scuffle, for trying to elude them that day, is that
24 correct?

25 A. Yes.

1 Q. So you actually expressed remorse for eluding the
2 officers ---

3 A. Yeah, ---

4 Q. --- that day.

5 A. --- for strivin' to get away, yes.

6 Q. Okay. Uh, what, uh, color was the Malibu that you were
7 in?

8 A. Green.

9 Q. Okay, and who was the driver?

10 A. Uh, Jamavous (phonetic), I don't know his last name
11 though it wa -- he was my co-defendant though.

12 Q. Okay. Are you aware the victim refused to give a
13 statement to law enforcement in this case, actually, not in
14 this case, in her case.

15 A. No, ma'am, I was not aware because I didn't, they didn't
16 disclose none of her evidence to us. Like when we had the
17 initial, uh, preliminary hearin' they told us they couldn't
18 give us her incident report because it belonged to another
19 case so we never was able to even interrogate her, they never
20 disclosed the evidence to us to the the interroga --
21 investigate or do anything with it, only thing my lawyer had
22 was the two incident reports from Bailey and Gioia statin'
23 that one said that we turned slow, one said we turned fast
24 and, you know, we got apprehended and there was a scuffle and
25 the the formalities a what happened after that but we never

MANUEL RASHON JETER - CROSS-EXAMINATION BY MS. GIOVANOLI

1 was abreast with the initial incident report from her which
2 was the alleged reason for me bein' pulled over.

3 Q. Okay, and that's a basis for your claim of prosecutorial
4 misconduct, that you weren't supplied with an incident
5 repor -- report from another case.

6 A. Yes, and prosecutor misconduct, yes, yeah, it's
7 prosecutor misconduct and, um, ineffect [sic] of counsel
8 because my lawyer didn't go through the case and get the
9 evidence and piece it together on his own, he didn't perform a
10 minimal investigation on the evidence that was given to us.

11 Q. Okay, no further questions, thank you.

12 THE COURT: Redirect, sir?

13 MR. WILKES: No, sir.

14 THE COURT: Okay. Alright, thank you, sir, you can step
15 down, I appreciate it.

16 (Whereupon, the applicant left the stand.)

17 THE COURT: Alright, Mr. Wilkes, any additional evidence
18 from the applicant?

19 MR. WILKES: Um, yes, sir. We would ask, uh, to call
20 Ms. Jackie Prater.

21 THE COURT: Okay, Ms. Prater, if you'd come forward,
22 please, to the witness stand. If you would, please, ma'am,
23 come forward, place your left hand on the Bible and raise your
24 right to be sworn.

25 (Whereupon, the witness came forward.)

JACQUELINE E. PRATER - DIRECT EXAMINATION BY MR. WILKES

1 JACQUELINE ELIZABETH PRATER,
2 having been first duly sworn, testified as follow:

3 THE COURT: Okay, you'll please take a seat and state
4 your full name for the record.

5 THE WITNESS: Jacqueline Elizabeth Prater.

6 DIRECT EXAMINATION BY MR. WILKES:

7 Q. (Coughed.) Excuse me. Ms. Prater, ---

8 A. Yes, sir.

9 Q. --- how are you related to Mr. Jeter?

10 A. He's my nephew.

11 Q. Back on I think it was April 1st -- well did you receive
12 a call from Mr. Schultz?

13 A. Yes, sir, about 9:30 in the morning.

14 Q. Had you talked to him before?

15 A. No.

16 Q. Okay. And 9:30 in the morning on the day that Mr. Jeter
17 went to court?

18 A. Yes.

19 Q. And what did Mr. Schultz ask you?

20 A. He said that, um, he was goin' to court that mornin',
21 that, um, that afternoon and I needed to bring him an outfit
22 to go to court.

23 Q. And did you do that?

24 A. Yes, I went to take it but he never did get it.

25 Q. Okay. And was that the first you knew of him needing

JACQUELINE E. PRATER - CROSS-EXAMINATION BY MS. GIOVANOLI

1 clothes or going to court that ---

2 A. Yes.

3 Q. --- day?

4 A. Yes, sir.

5 Q. Very good, that's all I have.

6 THE COURT: Okay. Cross-examination, ma'am?

7 MS. GIOVANOLI: Just quickly.

8 CROSS-EXAMINATION BY MS. GIOVANOLI:

9 Q. Did he tell you why a, um, your nephew was goin' to court
10 that day?

11 A. No, that he just told me that he was goin' to court that
12 mor -- that afternoon and just to bring him somethin' court,
13 you know, ---

14 Q. Attire, clothes.

15 A. Right, court -- right, thank you.

16 Q. Okay. Alright, no further questions, thank you.

17 THE COURT: Okay. Any redirect, Mr. Wilkes?

18 MR. WILKES: No, sir.

19 THE COURT: Okay, thank you, Ms. Prater, I appreciate ---

20 THE WITNESS: You're welcome.

21 THE COURT: --- ya bein' here, ---

22 THE WITNESS: Um, ---

23 THE COURT: --- ma'am, you can step down.

24 THE WITNESS: --- um, thank you.

25 (Whereupon, the witness left the stand.)

TAYVONA MIKIESHA STINSON - DIRECT EXAMINATION BY MR. WILKES

1 THE COURT: Anything else, Mr. Wilkes?

2 MR. WILKES: Uh, we'd call Ms. Stinson.

3 THE COURT: Ms. Stinson, if you come forward, please,
4 ma'am.

5 (Whereupon, the witness came forward.)

6 THE COURT: Place your left hand on the Bible and raise
7 your right.

8 TAYVONA MIKIESHA STINSON,
9 having been first duly sworn, testified as follows:

10 THE COURT: Okay, take a seat, please, ma'am, and state
11 your full name for the record.

12 THE WITNESS: Tayvona Mikiesha Stinson.

13 DIRECT EXAMINATION BY MR. WILKES:

14 Q. Ms. Stinson, did you have an inc -- or tell me about,
15 very briefly about the incident with your I believe boyfriend
16 in 2014.

17 A. Um, me and him had a altercation where he drug me with
18 his car. Um, I was at my best friend's house on Baltimore
19 Street, ---

20 Q. Okay.

21 A. --- um, I called the police, um, the female officer came,
22 um, I let her know what was going on. I wrote my accident
23 report and when I looked over I seen a green Honda which was
24 comin' out the apartments across the street from our house and
25 I said that he has a green Honda like that.

TAYVONA MIKIESHA STINSON - CROSS-EXAMINATION BY MS. GIOVANOLI

1 Q. Okay. And did you tell, uh, the officer or other
2 officers the type of vehicle that your boyfriend was driving,
3 did you explain that it was a green Honda?

4 A. Yes, I just said it was a green Honda, ---

5 Q. Okay.

6 A. --- yes.

7 Q. And did you give them, uh, his name?

8 A. Yes, I did.

9 Q. And did you tell them was there anyone else in the car
10 with him and with ---

11 A. No.

12 Q. Okay. Did you ever tell any officer that it was a Chevy
13 Malibu?

14 A. No, sir.

15 Q. Okay. And you would definitely know the difference
16 between a Chevy Malibu and a Honda.

17 A. Yes, sir, I would.

18 Q. Very good. No further questions of Ms. Stinson.

19 THE COURT: Okay, thank you very much. Yes.

20 CROSS-EXAMINATION BY MS. GIOVANOLI:

21 Q. Good afternoon. Whenever you said that you told the
22 female officer that "it was a green Honda like that," did you
23 indicate using your hand when you said "like that?"

24 A. Yes, I did 'cause there was a green Honda comin' out of,
25 um, it's two entrances at the apartments across the street

TAYVONA MIKIESHA STINSON - CROSS-EXAMINATION BY MS. GIOVANOLI

1 from by best friend's house, it was a green Honda pullin' out
2 and I was lettin' him know it was a green Honda like that one.

3 Q. Okay, so you were pointing at just to say in comparison
4 it's like that car.

5 A. Yes, I was.

6 Q. Okay, and you pointed to a vehicle that was actually in
7 front of you.

8 A. Yes, it was across the street, yes, ma'am.

9 Q. Okay, and, uh, no no further questions, thank you.

10 THE COURT: Okay. Mr. Wilkes, any additional questions,
11 sir?

12 MR. WILKES: None.

13 THE COURT: Okay. Thank you, Ms. Stinson, appreciate ya
14 bein' here, step down.

15 (Whereupon, the witness left the stand.)

16 THE COURT: Yes, sir, anything further?

17 MR. WILKES: Is -- that I assume that Exhibit A, B and I
18 think he has C that he attached to his, or maybe it stays in,
19 are attached to the application, I assume that those are of
20 the record and I don't need to make 'em exhibits if the Court
21 has those.

22 THE COURT: I'm sure that, uh, that I've got exactly what
23 you're talkin' about. Okay, we're talkin' about the, uh, ---

24 MS. GIOVANOLI: Application.

25 THE COURT: --- the application together with Exhibit A,

MOTIONS AND MATTERS

1 B and A being an -- a narrative incident report, B bein'
2 incident report and then C, I don't see a C, I see ---

3 MR. WILKES: May not be a C ---

4 THE APPLICANT: Yeah, ---

5 MR. WILKES: --- but there's a ---

6 THE APPLICANT: --- there's a ---

7 THE COURT: Yeah.

8 THE APPLICANT: --- C but it's not, it's not, um, ---

9 (Indiscernible cross-talk.)

10 MR. WILKES: It doesn't say C, the last would be, um, ---

11 THE APPLICANT: Mr. Bailey's ---

12 MR. WILKES: Yes, Officer ---

13 THE COURT: Yeah, ---

14 MR. WILKES: --- Bailey, it says ---

15 THE COURT: --- I got it, ---

16 MR. WILKES: --- supplement. Okay.

17 THE COURT: --- it's the supplement, yes, sir, I have it.

18 MR. WILKES: We'd just incorporate those, uh, if they
19 are, if not not I'll make 'em an exhibit, I don't know if I
20 need to.

21 THE COURT: I will, uh, include that, uh, and consider it
22 part of the application itself, I'll consider the same, ---

23 MR. WILKES: Very good.

24 THE COURT: --- do that, ---

25 MR. WILKES: Um, ---

MOTIONS AND MATTERS

1 THE COURT: --- yes, sir.

2 MR. WILKES: --- as far as witnesses and evidence rounds
3 are complete, if I may, um, speak briefly.

4 THE COURT: Sure. Do you wanna wait until the State
5 puts any ---

6 MR. WILKES: Um, ---

7 THE COURT: --- evidence into the record or you want ---

8 MR. WILKES: --- yes.

9 THE COURT: I, and I'll give you, you can do it however
10 you wanna do it, I'm I'm per -- perfectly comfortable.

11 MR. WILKES: Well, I just, uh, I I wanna say that the
12 point is in, uh, with the evidence is ---

13 THE COURT: Yes, sir.

14 MR. WILKES: --- his mental state at the time ---

15 THE COURT: Yes.

16 MR. WILKES: --- and I I know he's talked about other
17 things but its mental state at the time goin' into the plea so
18 that that that is the point of the case.

19 THE COURT: Okay. Alright, I understand. Okay,
20 Ms. Giovanoli, you, would you like to call any witnesses,
21 ma'am?

22 MS. GIOVANOLI: Yes, Your Honor, I will call Joshua
23 Schultz.

24 THE COURT: Okay.

25 (Whereupon, the witness came forward.)

E. JOSHUA SCHULTZ - DIRECT EXAMINATION BY MS. GIOVANOLI

1 E. JOSHUA SCHULTZ, having been
2 first duly sworn, testified as follows:

3 THE COURT: Okay, take a seat, please, sir, ---

4 THE WITNESS: Thank you.

5 THE COURT: --- and state your full name for the record
6 if you would.

7 THE WITNESS: Attorney E. Joshua Schultz.

8 DIRECT EXAMINATION BY MS. GIOVANOLI:

9 Q. Mr. Schultz, how long have you been practicing criminal
10 law?

11 A. Uh, since, uh, 2005.

12 Q. Okay. And, um, how did you come to represent the
13 applicant in this case?

14 A. Uh, he retained me in a private capacity.

15 Q. Okay. And, uh, did you receive discovery in this case?

16 A. Yes, ma'am.

17 Q. Okay. Uh, can you give a brief description of the s --
18 the, uh, evidence in this case.

19 A. Uh, the incident report, uh, there was about three or
20 four, uh, incident reports followed by additional narratives,
21 um, there was obviously drug reports, ---

22 Q. Um-hum.

23 A. --- um, there's some other, um, incidentals, um, that
24 were, uh, found in the discovery, uh, that I, um, shared with
25 Mr. Jeter, um, and I gave him a copy of his discovery at the

E. JOSHUA SCHULTZ - DIRECT EXAMINATION BY MS. GIOVANOLI

1 jail there, um, and there was also a, uh, NCIC printout of
2 Mr. Jeter's prior record.

3 Q. Have you had an opportunity to review the application
4 that was filed in this PCR?

5 A. I have.

6 Q. Did you see the attachments that were investigative
7 reports by various officers?

8 A. Yes, ma'am.

9 Q. And had you seen those prior to this guilty plea?

10 A. I believe so, yes.

11 Q. Okay. Had you reviewed those wit -- were were they part
12 of your discovery?

13 A. Uh, yes, the, uh, uh, the, uh, are are they contained in
14 the application for post-conviction relief?

15 Q. They're attached to that if, uh, if you have it in front
16 of you, if not I can provide it to you, it was Exhibit A, B
17 and C.

18 A. I have it in front of me.

19 Q. Okay, were those provided to you in discovery?

20 A. Yes, ma'am, I believe so.

21 Q. And did you review those with the applicant?

22 A. Uh, yes.

23 Q. And did you review all of the evidence in this case with
24 the applicant?

25 A. As much as I possibly could.

E. JOSHUA SCHULTZ - DIRECT EXAMINATION BY MS. GIOVANOLI

1 Q. Did you discuss possible defenses?

2 A. Yes.

3 Q. Okay. And wha -- and what in your view was a possible
4 defense in this case?

5 A. A possible defense would be, um, that the, uh, initial
6 stop, uh, was, that, was not conducted, um, for, uh,
7 reasonable articulable suspicion, um, that would be, uh,
8 basically the only defense that we would have.

9 Q. Okay. And you in fact brought that to the Court's
10 attention during the guilty plea, is that ---

11 A. Yes.

12 Q. --- correct?

13 A. Yes.

14 Q. Okay. Why didn't you pursue, uh, that, uh, defense?

15 A. Uh, because ultimately in my opinion I don't, I don't
16 think it woulda been ultimately successful. Um, according to
17 the incident report and according to, uh, what, uh, Officer
18 Gioia, uh, said in his incident report, um, he, uh, was
19 patrolling in Spartanburg and he observed a red in color, uh,
20 Chevy Caprice, uh, swerve into my lane quickly and then back
21 into the other lane, if, uh, if his testimony would, um, have
22 been, um, deemed I guess credible at trial, um, that may did,
23 may have been enough for the, uh, reasonable articulable
24 suspicion in that case, uh, not necessarily if that a car was
25 involved in a prior incident.

E. JOSHUA SCHULTZ - DIRECT EXAMINATION BY MS. GIOVANOLI

1 Q. Okay. Uh, well do you, uh, recall any, uh, mention in
2 the reports of a green Honda?

3 A. Um, it's been a long time since I looked at, uh, them, I
4 I I don't remember, it's it's a long time ago.

5 Q. Okay. Do you recall what car applicant was riding in?

6 A. Um, no, I do not, ---

7 Q. Okay. Um, but ---

8 A. --- not offhand without re -- ha, referring to
9 discovery.

10 Q. --- would it be fair to say a green Ch, uh, Chevy
11 Malibu?

12 A. Yes, that sounds about right.

13 Q. And, um, in the investigative report, um, of of a
14 different case in which Mrs. Stinson was a victim, she, uh,
15 told the officer that her e -- her boyfriend at the time was
16 dri -- was riding or driving in a green Honda and, um, she
17 pointed at a vehicle saying, It's like that, do you recall
18 that?

19 A. Uh, I recall that, yes.

20 Q. Okay. Did that play any role in your decision not to
21 pursue the motion to suppress based on the unlawful stop?

22 A. Yes.

23 Q. Okay. And how did that play a role in it?

24 A. Uh, just just because, uh, the, uh, the identification
25 was vague I guess, um, and and she didn't identify, uh, with

E. JOSHUA SCHULTZ - DIRECT EXAMINATION BY MS. GIOVANOLI

1 any great specificity, uh, the the car.

2 Q. So it it, is it fair to say that if if the report said a
3 green Honda that, um, that that, uh, mischaracterization or
4 no, 'scuse me, let me rephrase that, that when she pointed at
5 the applicant's vehicle, that would have corrected any problem
6 with reasonable suspicion.

7 A. Well it could have, um, and at, uh, at trial, uh, at
8 pretrial which is, uh, were to -- would involve ultimately
9 been been hashed out it it could very well have, uh, maybe
10 carried the day but at the same time, um, I'm dealin' with
11 probabilities, um, I felt, um, that, uh, uh, the trial judge,
12 uh, would rule against me, um, and so that's that's the
13 ultimate reason why, um, I advised my client to.

14 Q. And can you just explain again briefly why you thought
15 the trial judge would would rule against you in a motion to
16 suppress.

17 A. Um, that just because a the lack of a speci, uh,
18 specificity in regards the description of the car and also
19 because I think Officer Gioia's testimony would be ultimately
20 credible in the eyes of the circuit court judge and I think
21 that's probly why he would have ruled, uh, against, uh,
22 Mr. Jeter and not for Mr. Jeter as far as a suppression motion
23 that I would would have ultimately done.

24 Q. Was it your understanding at the time that Mrs. Stinson
25 actually pointed to the a -- of the vehicle applicant was

E. JOSHUA SCHULTZ - DIRECT EXAMINATION BY MS. GIOVANOLI

1 in?

2 A. Um, I I can't remember specifically.

3 Q. Okay. Um, do you recall, uh, that me calling your
4 office ---

5 A. Yes.

6 Q. --- and discussing this case?

7 A. Yes.

8 Q. Okay. And do you recall telling me that you didn't
9 pursue the motion to suppress because it would have been
10 remedied because the victim actually pointed to the
11 applicant's ---

12 (Indiscernible cross-talk.)

13 A. Yes, I I do remember that ---

14 Q. Okay.

15 A. --- now.

16 Q. Um, and the day that, uh, the applicant showed up for his
17 guilty plea hearing did you tell him that he was going to
18 trial that day?

19 A. Yes.

20 Q. Okay. And, uh, -- wait, so how did this turn in fr --
21 from a trial to a guilty plea?

22 A. Well, I and that if I can just ex -- explain that a
23 little bit. The the week that Mr. Jeter went to trial, uh,
24 was an extremely busy week for me and I had, um, a large
25 amount a cases on that docket and, um, all the other cases

E. JOSHUA SCHULTZ - DIRECT EXAMINATION BY MS. GIOVANOLI

1 were either settled, uh, the previous week or they had pled
2 guilty, um, Mr. Jeter was way down the docket on that, um,
3 that week, um, so, uh, I was, um, uh, I was I guess surprised
4 I guess, um, that the the case, that case was called that
5 quickly on that week.

6 Q. Okay. Why didn't you asked for a continuance?

7 A. Um, that I I I did not, um, I I felt that, um, that the
8 continuance may not have been granted at that point.

9 Q. Okay. Why did you feel that way?

10 A. Um, ---

11 Q. Had you had a continuance before?

12 A. I I ha -- that I had not had had a continuance before but
13 I had made a motion to get Mr. Jeter out, reinstate his home
14 detention I believe, reinstate some aspect of his bond as I,
15 as I recollect and I don't think the judge was very inclined
16 to grant me a continuance for somethin' that I I had asked the
17 judge to reinstate Mr. Jeter's bond on.

18 Q. Okay, I understand. Uh, do you recall how many times you
19 have met with the applicant approximately?

20 A. Uh, several.

21 Q. Several. Uh, was that two, three, four ---

22 A. About, uh, six or seven.

23 Q. Okay. Do you keep notes of when you meet with your
24 clients?

25 A. Uh, that no, not really. Um, I I, uh, I detail, uh, when

E. JOSHUA SCHULTZ - DIRECT EXAMINATION BY MS. GIOVANOLI

1 I, um, share discovery with my client, ---

2 Q. Okay.

3 A. --- um, but, uh, no, I I I do not write down every time I
4 see him because something, uh, that, uh, he, I believe he was
5 in, uh, pod, um, 4 at the jail and, ---

6 Q. Okay.

7 A. --- um, every time I went to, that I had a lotta clients
8 in pod 4 and sometimes Mr. Jeter and I would just have a
9 casual conversation, I didn't write it down in my, in my
10 folder so . . .

11 Q. Okay. In your meetings, your six to seven meetings, what
12 did you discuss with the applicant?

13 A. The discovery, possible defenses, things like that.

14 Q. Okay. Did you discuss his version of the facts?

15 A. Yes.

16 Q. Okay, well what was his version of the facts that day?

17 A. Um, his version was, um, that he was, uh, stopped, uh,
18 think that they didn't have probable cause to stop him first
19 place, ---

20 Q. Um-hum.

21 A. --- um, that he, um, ---

22 Q. Did he tell you that he didn't have drugs?

23 A. Um, well I I wouldn't characterize it as that but he he
24 definitely did not say that, um, he threw a pot of cocaine in
25 officer's face.

E. JOSHUA SCHULTZ - DIRECT EXAMINATION BY MS. GIOVANOLI

1 Q. Okay. Did he deny that the cocaine was his?

2 A. Um, I can't remember.

3 Q. Okay. Um, did he deny that he ran from the officers?

4 A. Uh, I think that, I think there was a a short chase, um,
5 but, uh, he would not characterize that as being violent, um,
6 anything like that and I think the record reflects that as
7 well.

8 Q. Yes. Um, so in these meetings, uh, was a guilty plea
9 ever discussed?

10 A. Yes.

11 Q. Um, what was your understanding of of applicant's desire
12 plead guilty?

13 A. Well, um, my understanding is that, um, he he thought
14 that he had a, uh, good defense as far as the, uh, probable
15 cause issue goes, um, I think that he would be willing to
16 plead to something, um, uh, possibly, uh, less than what the
17 State was offering on this case, he he had already served I
18 believe a, um, a 7-year term for traffickin', I ,uh, as I
19 remember and, uh, I remember I had a conversation with him,
20 um, specifically about about, um, about 7 or less and and and
21 I said, uh, I don't, I don't think the State will go below 7
22 because his previous trafficking conviction, ---

23 Q. Um-hum.

24 A. --- um, but, uh, uh, I was hopin' for something around
25 that range, uh, ---

E. JOSHUA SCHULTZ - DIRECT EXAMINATION BY MS. GIOVANOLI

1 Q. Around 7?

2 A. --- around 7 or so.

3 Q. Okay, so did you inform the applicant of the, uh, minimum
4 and maximum he was lookin' at?

5 A. Yes.

6 Q. Okay. Did you ever promise him home detention?

7 A. No.

8 Q. Okay. Did you get his hopes up about home detention?

9 A. Um, I I told him that home detention was a possibility
10 but, uh, as as always, it is up to the discretion a the judge,
11 uh, and, uh, uh, Judge Hayes as I said, uh, well, Judge Hayes
12 sometimes in this circuit grants home detention on trafficking
13 charges, uh, Judge Cole's usual practice is not.

14 Q. Okay. And you were before Judge Cole in this case?

15 A. Correct, ---

16 Q. Okay.

17 A. --- yes.

18 Q. Okay. Um, did you know the maximum, uh, time that
19 applicant was facing?

20 A. Yes.

21 Q. Um, can you tell us that.

22 A. Uh, I think it was, um, um, uh, I know he's lookin' a
23 minim mandatory time, I think it was, uh, between either 5 or
24 7 to 30 I believe.

25 Q. Okay. Okay, and did you ever tell him he was facing

E. JOSHUA SCHULTZ - DIRECT EXAMINATION BY MS. GIOVANOLI

1 life?

2 A. Um, well 30-year charge would would have been
3 significantly, well it wouldn't a been life but it would have
4 been significant sentence.

5 Q. Uh, ---

6 A. I I don't believe life without parole notice was s -- was
7 served.

8 Q. Okay. Do you recall if it was served?

9 A. I, uh, I don't, ---

10 Q. Okay.

11 A. --- I don't believe so.

12 Q. Did did the applicant an -- have any other outstanding
13 charges besides the three you you represented him on that
14 you're aware of?

15 A. Not not that I was aware of.

16 Q. Okay. Whose decision was it to plead guilty?

17 A. It was his.

18 Q. Okay. Okay. Did you advise him to plead guilty?

19 A. Yes.

20 Q. And why did you so advise?

21 A. Um, and as I said before I I thought that our, uh, um,
22 our probable cause of reasonable articulable suspicion
23 suppression motion would not have ultimately been
24 successful.

25 Q. Okay. Did you interview any witnesses in this case?

E. JOSHUA SCHULTZ - CROSS-EXAMINATION BY MR. WILKES

1 A. Um, I interviewed the officers, um, I do not recollect
2 interviewing Ms. Stinson.

3 Q. And your testimony here today is that you did review all
4 of the, all of the discovery with applicant.

5 A. Yes, and I shared the discovery with him.

6 Q. Okay. You provided him his own physical copy?

7 A. Uh, I did and I provided that, um, according to our
8 records, um, on, uh, um, March 12th 2015.

9 Q. Okay. Okay. Did you inform the applicant of the rest of
10 his constitutional rights like his right to a jury trial,
11 confront witnesses, remain silent, right to testify if he so
12 choose?

13 A. I can't remember specifically, um, doing that but that's
14 that usually my practice.

15 Q. Okay. Okay, no further questions, if you'd please answer
16 any questions that Mr. Wilkes may have, thank you.

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION BY MR. WILKES:

19 Q. Mr. Schultz, is ---

20 A. Yes, sir.

21 Q. --- is it fair to say then he's tellin' the truth when he
22 said he had no idea he would be going to trial that day?

23 A. Uh, I I had, um, informed him that that he would be going
24 to trial, um, potentially in that, um, in the next couple
25 weeks p -- at -- in a previous conversation that I had with

E. JOSHUA SCHULTZ - CROSS-EXAMINATION BY MR. WILKES

1 him but, um, the -- that trial, uh, caught me off guard,
2 um, ---

3 Q. Well if it caught you off guard it caught him off guard.

4 A. Uh, definitely, yes, ---

5 Q. Okay.

6 A. --- so, yes.

7 Q. And so you're called to trial that day, you were aware at
8 the time that he was adamant about his defense, uh, as to the
9 procedural aspects: stop, search and seizure?

10 A. Yes.

11 Q. And you did have by that time the completely
12 contradictory police reports.

13 A. Uh, yes, as provided in discovery yes, sir.

14 Q. Okay. And the additional one that wasn't provided in
15 discovery that was relating to Ms. Stinson's case, you had
16 that one too by that day, right?

17 A. I believe so, yes.

18 Q. Okay, but you had not talked to Ms. Stinson.

19 A. I had not.

20 Q. Okay. Um, you had not subpoenaed her for the suppression
21 hearing if you went to trial that day.

22 A. No.

23 Q. Had you subpoenaed O -- Officer Oswald from her case,
24 Ms. Stinson's case?

25 A. No.

E. JOSHUA SCHULTZ - CROSS-EXAMINATION BY MR. WILKES

1 Q. Had you subpoenaed Officer Bailey who gave yet another
2 contradictory version of the reason for the stop?

3 A. Uh, I think Officer Bailey was ultimately subpoenaed by
4 the State, ---

5 Q. Do ---

6 A. --- um, ---

7 Q. --- you know, do you know ---

8 A. --- so, ---

9 Q. --- that?

10 A. Uh, I I, um, I do not but I I I assume that he would be,
11 uh, there ---

12 Q. Oh.

13 A. --- at their case in chief.

14 Q. You you would agree with me that the State can bring
15 whichever officers they choose and leave out the officers they
16 don't want.

17 A. Absolutely.

18 Q. Okay. And Officer -- how do we say that, do you know?

19 A. It's Gioia.

20 Q. Gioia. Gio ---

21 A. Gio -- Gioia, yeah.

22 Q. Gioias. Um, did you subpoena Officer Gioia?

23 A. No.

24 Q. Okay, so who did you subpoena ---

25 A. Uh, in this ---

E. JOSHUA SCHULTZ - CROSS-EXAMINATION BY MR. WILKES

1 Q. --- for that, ---

2 A. --- ca ---

3 Q. --- for that day?

4 A. Uh, I, to my recollection u -- unless the the, unless I
5 see somethin' different in my file, I did not subpoena
6 anybody.

7 Q. Okay. And you would have told that when when he asked
8 that day, he says he asked that day, that would be logical
9 that he would ask about bein' prepared to present a defense on
10 that issue, do do you remember him asking you about defending
11 on that issue; in other words, the suppression issue?

12 A. Yes.

13 Q. Okay. And if he asked you, Do we have our witnesses
14 here, are we ready to present witnesses and evidence, you
15 would have had to say we don't.

16 A. Um, I I didn't subpoena, um, those those folks so, uh, it
17 woulda been difficult if if that case had ---

18 Q. Right.

19 A: --- proceeded to a suppression motion to ---

20 Q. Ab ---

21 A. --- to do that.

22 Q. --- absolutely. So at that point it, is it fair to say
23 that that might have created panic in his mind that he is not
24 now prepared to present the one defense that he was adamant
25 about on the day he's been told he's going to trial today?

E. JOSHUA SCHULTZ - REDIRECT EXAMINATION BY MS. GIOVANOLI

1 A. It it could've.

2 Q. Okay. And he, uh, expressed that to the judge that he
3 had a defense.

4 A. Yes.

5 Q. And he stopped when the judge said, Do you really want to
6 give up the right to go to trial, he stopped and asked you
7 something, do do you recall did he mention that suppression
8 issue again when he stopped in the middle of the plea and
9 asked you somethin'?

10 A. I I can't remember that specifically, um, but if if I had
11 to guess I would say yes, it ---

12 Q. Okay.

13 A. --- was, it was concerning that issue.

14 Q. Very good, no further questions.

15 THE COURT: Any recross or redirect, ---

16 MS. GIOVANOLI: Just ---

17 THE COURT: --- 'scuse me.

18 MS. GIOVANOLI: --- just just briefly, Your Honor.

19 THE COURT: Sure.

20 REDIRECT EXAMINATION BY MS. GIOVANOLI:

21 Q. Um, so is it safe to say that you were unprepared for
22 trial that day?

23 A. Uh, I was unprepared for the suppression motion, um, and
24 if we would've lost on suppression motion then then it woulda
25 been difficult to maintain a not guilty verdict.

E. JOSHUA SCHULTZ - REDIRECT EXAMINATION BY MS. GIOVANOLI

1 Q. Okay, so when you informed, uh, the applicant that you
2 were unprepared for the -- did you inform him that you were
3 unprepared for the motion to suppress?

4 A. That I I can't remember that specifically if I used the
5 words, um, ---

6 Q. Okay, well you had a an offer from the State, right, ---

7 A. Yes.

8 Q. --- is that correct, and you, uh, uh, relayed that offer
9 to the applicant ---

10 A. Yes.

11 Q. --- and he a -- accepted that offer.

12 A. Yes.

13 Q. And did you make him plead guilty?

14 A. No, I didn't force anybody to plead guilty.

15 Q. Okay, did you allow him to make that decision?

16 A. Yes.

17 Q. Okay. And he was aware of the potential defense that you
18 had in this case ---

19 A. Yes.

20 Q. --- and he still pled guilty.

21 A. Yes.

22 Q. Had he not accepted the guilty, the plea offer, if you
23 will, would you have a -- attempted to ask for a
24 continuance?

25 A. Yes.

E. JOSHUA SCHULTZ - REDIRECT EXAMINATION BY MS. GIOVANOLI

1 Q. Okay. Okay, nothing further.

2 THE COURT: Alright. Any recross, Mr. Wilkes?

3 MR. WILKES: None, Your Honor.

4 THE COURT: Okay, thank you, Mr. Schultz, ---

5 THE WITNESS: Thank Your Honor.

6 THE COURT: --- you can stay step down, appreciate it.

7 (Whereupon, the witness left the stand.)

8 THE COURT: Anything further from the State?

9 MS. GIOVANOLI: No, nothing further, Your Honor.

10 THE COURT: Okay, alright. Alright, anything further
11 from the applicant?

12 MR. WILKES: Your Honor, is it possible for the Court
13 to, ---

14 THE COURT: No.

15 MR. WILKES: --- um, ---

16 THE COURT: I'm just ---

17 (Indiscernible cross-talk.)

18 MR. WILKES: --- advise the consequences of of returning
19 a conviction? I have explained that to him, ---

20 THE COURT: Sure.

21 MR. WILKES: --- did not question him under oath, I would
22 like the record to reflect that he is aware that overturning
23 this case puts him ---

24 THE COURT: Just give me one s ---

25 MR. WILKES: --- exactly back in the same position he

MOTIONS AND MATTERS

1 was.

2 THE COURT: Okay, I'll do that.

3 EXAMINATION BY THE COURT:

4 Q. Um, Mr. Jeter, I'll remind you re -- you remain under the
5 oath that you took when you testified.

6 A. Yes, sir.

7 Q. Um, Mr. Wilkes just wants to make sure that you
8 understand the consequences of a successful PCR application.
9 So you recognize that if, that the only thing that I can do in
10 a PCR application is basically overturn the conviction and
11 send it back to, uh, the Court for a new trial or for new
12 proceedings, you understand that?

13 A. You, when you say refer it back to the Court, do you mean
14 like general sessions?

15 Q. Yes, sir, just means you start over from scratch, you
16 understand that?

17 A. Yes, sir, I do.

18 Q. And when you start over from scratch, what that means is
19 that all of the original charges as they were when they
20 originally came before the Court are s -- are pending against
21 you, you understand that?

22 A. Those are the original charge that I pled to, correct?

23 Q. Right, that's ---

24 A. Yes, ---

25 Q. --- right.

MOTIONS AND MATTERS

1 A. --- sir, I do want.

2 Q. So then you understand that the, you still have potential
3 of receiving the maximum possible penalty for the charges that
4 were before the Court, so on the trafficking twenty-eight to a
5 hundred, if you were to enter another plea or if you were to
6 go to trial, you faced up to 20 years on that, on your, uh, on
7 assault, uh, beat a police officer, or excuse me, assault for
8 resisting arrest by assaulting a police officer, you again you
9 could get the 10 but the difference is that you could get them
10 consecutive to one another, so as opposed to having a 15-year
11 s -- and a 10-year sentence which are concurrent that you
12 could potentially be facing a period of incarceration of
13 30 years, you understand that?

14 A. I'm aware of it now, sir, Your Honor.

15 Q. Okay, so if you win you go back to square one and you're
16 lookin' at that potential, do you understand?

17 A. Yes, sir.

18 Q. Um, and knowin' that do you want me to consider the post-
19 conviction relief application?

20 A. Yes, sir, I do.

21 Q. Okay.

22 THE COURT: Alright, Mr. Wilkes, is that satisfactory?

23 MR. WILKES: It did Your Honor.

24 THE COURT: Okay, alright. Okay, anything else we need
25 to put on the record?

MOTIONS AND MATTERS

1 MS. GIOVANOLI: Just may my witness be excused?

2 THE COURT: Sure.

3 MS. GIOVANOLI: Thank you.

4 THE COURT: Yes, ma'am.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: Okay. Anything, any argument you need to put
7 on the record this point, Mr. Wilkes?

8 MR. WILKES: Uh, yes, sir, just briefly. Um, obviously,
9 uh, the the point that the applicant has made, uh, from
10 beginning in his PCR is that he felt forced into pleading
11 because of the lack of preparation for that day and he didn't
12 even know he was goin' that day and then they took him over
13 and said, You're going to trial today, and of course his
14 immediate question goin', uh, to counsel was, Are we prepared
15 for my suppression motion, which counsel said he's held burden
16 to all through the de -- the defense of the case and, uh, of
17 course counsel be truthful and say, Well, no we're really not,
18 and as Mr. Schultz said that that probably would cause panic
19 in his client, um, it is that type of situation precisely, uh,
20 that creates a undue influence for a guilty plea as I, and I
21 understand that he he answered the judge's questions after it
22 was done enough but if you even look at the colloquy he
23 stopped it twice, raised the defense and then at the critical
24 point of givin' up the jury trial question said to us, Well,
25 you know, I I wanna talk to my lawyer and addressed it again

MOTIONS AND MATTERS

1 and of course without any defense, without any witnesses, um,
2 he was just kinda stuck in a position where, uh, the guilty
3 plea unfortunately was his only choice. Now as I said a
4 minute ago his state a mind is the key, uh, whether it's free
5 and voluntary. Whether or not it's a wise choice to say I
6 wanna go to trial ---

7 THE COURT: Okay, um-hum.

8 MR. WILKES: --- is not, I don't think that's the Court's
9 question for today, I think it's just his state a mind and
10 waivin' his right, it's his right to make that choice, whether
11 it is more probable or less probable that he wouldn't win the
12 suppression hearing is not the question and it is his decision
13 to do it whether it's smart or not smart, probable or not
14 probable because that im -- that impacts free and voluntary
15 which is the hurdle you get to, um, if you can't get over that
16 hurdle then whether it was probable or improbable to win is is
17 not even a question I don't think for the Court to need to
18 address so his state of mind on a guilty plea I think is is
19 the key.

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

21 MS. GIOVANOLI: And in response, ---

22 THE COURT: Yes.

23 MS. GIOVANOLI: --- um, you know, it's understandable
24 that defendants waiver in deciding whether or not to plead
25 guilty, um, or go to trial and in this case there was evidence

MOTIONS AND MATTERS

1 presented that trial was a surprise to all the parties
2 involved, the applicant still had the decision whether or not
3 to plead guilty or or proceed with trial, had he not been
4 successful at his motion to suppress, he could have then
5 appealed, um, to the appellate courts and resolved it as such,
6 um, the record demonstrates that he was aware that he was
7 waiving that defense, um, the record is also pretty thorough
8 in in counsel addressing the Court with regard to that defense
9 and his view that he would not be successful anyways. He did
10 apprise, um, let applicant know a potential maximum time he
11 was facing and the State's offer being a cap on 20, um,
12 applicant had the opportunity to weigh, uh, the consequences,
13 uh, of of, uh, entering that plea, um, he did go forward with
14 the guilty plea and, um, the S -- the State would submit that,
15 uh, applicant has failed to meet his burden that the plea was
16 involuntary or that, uh, app, um, counsel rendered ineffective
17 assistance of counsel, um, in counsel's opinion, uh, he would
18 not be successful with the motion well or with a trial, he
19 advised the applicant that a guilty plea was in his best
20 interest, um, and left that decision up to the applicant who
21 made his deci -- decision freely and voluntarily, um,
22 furthermore, the the motion to suppress it's merely
23 speculative at this point that they would've been successful,
24 um, so if there were any deficiency on part of counsel for not
25 pursuing that motion to suppress and rather advising applicant

MOTIONS AND MATTERS

1 to plead guilty, um, uh, s -- we would submit that, uh, that
2 there's no prejudiced because applicant has failed to meet his
3 burden of proof that a motion to suppress would have been
4 successful or changed the outcome, um, so that would, that
5 would be, uh, State's position.

6 THE COURT: Okay, thank you very much. Okay, I'll take
7 the matter under advisement, um, and I will consider the
8 transcript in context with testimony that's been offered
9 today. Thank you.

10 MR. WILKES: Thank ---

11 MS. GIOVANOLI: Thank ---

12 MR. WILKES: --- Your Honor.

13 MS. GIOVANOLI: --- Your Honor.

CERTIFICATE OF REPORTER

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on March 24, 2017 at the time and place heretofore set forth; and that the foregoing pages numbered from 3 through 59, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

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

August 24, 2017

Margaret A. Woods

Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Manuel Rashon Jeter, #322715,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No.: 2016-CP-42-0380

**ORDER OF DISMISSAL
WITH PREJUDICE**

2017 APR 24 PM 1:16
M. HOPE BLACKLEY

This matter comes before the Court by way of an application for Post-Conviction Relief (PCR) filed January 25, 2016. Respondent made its Return on August 23, 2016. An evidentiary hearing into the matter was convened on March 24, 2017 at the Spartanburg County Courthouse. J. Falkner Wilkes, Esquire, represented Applicant. Valerie Garcia Giovanoli, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. Applicant called Jackie Praylor and Tayvana Stinson as witnesses on his behalf. E. Joshua Shultz, Esquire, also testified. This Court had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the PCR application, Respondent's Return and the transcript from Applicant's plea.

PROCEDURAL HISTORY

Manuel Rashon Jeter ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Spartanburg County. Applicant was indicted at the February 2015 term of the Spartanburg County Grand Jury for trafficking cocaine 28–100 grams, second offense, (2015-GS-42-0384), assault on a police officer while resisting arrest, (2015-GS-42-0385), and possession of cocaine

base (2015-GS-42-0475). E. Joshua Schultz, Esquire (Counsel), represented Applicant. On April 1, 2015, Applicant pleaded guilty as indicted before the Honorable J. Derham Cole. Pursuant to the State's recommended cap of 20 years on all charges, Judge Cole sentenced Applicant to imprisonment for concurrent terms of 15 years for trafficking cocaine, 10 years for assaulting an officer while resisting arrest, and five years for possession of a cocaine base. Applicant did not appeal his conviction or sentence.

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

1. "Ineffective Assistance of Counsel," in that:
 - a. Counsel failed to investigate and discover the existence of the #07-0242-14 incident report
 - i. Applicant's vehicle was stopped on the basis that Tayvona Stinson had made a police report implicating Applicant in a domestic assault upon her.
 - ii. Police pulled Applicant over, detained and attempted to arrest Applicant, based on drugs that were discovered during this stop. After review of evidence rules with counsel, Applicant made a decision based upon the evidence to plead guilty to the offense to 15 years.
 - iii. Upon incarceration Applicant discovered incident report #07-0242-14 that stated Tayvona Stinson did not contact police until some 12 minutes after Applicant was detained and police did not come into contact with Stinson until some 20 minutes after Applicant was arrested.
 - iv. "As a direct result of counsel's failure to Investigate/State failure to disclose- the #07-0242014 incident report, the guilty/plea was involuntary
 - v. "As the #07-0242014 incident report provides evidence that the reasons for the initial stop were a product of fabrication by police and this the initial stop was not support by probable cause or reasonable suspicion, but rather police used a post hoc- Rationalization to justify an illegal stop and arrest
 - vi. "Had applicant been aware of the #07-0242-14 incident report, he could have made a cogent argument to suppress the fruit of illegal stop/arrest as fruit of the poisonous tree and not have pleaded guilty

2017 APR 24 PM 1:16
 M. #07-0242-14
 INCIDENT

- vii. "Gibson v. State, 513 S.E.2d 320 (1999), Held that State's failure to provide evidence favorable to accused and material to guilt or innocence can render the guilty plea involuntary
- viii. "Ard v. Catoe sets forth the standard of counsel duty to investigate the case
- b. Counsel failed to move to suppress evidence
- c. Counsel failed to secure or subpoena witnesses
 - i. Counsel should have subpoenaed or called six witnesses whose testimony would have corroborated that someone else committed the crimes Applicant was charged with.
- d. "This case sets forth a violation of 4th, 5th, 6th, and 14th amendment of the U.S. Constitution
- 2. "Prosecutorial Misconduct"
 - a. "The State failed to disclose the contents of the #07-0242-14 incident report, which was material to Applicant's decision to plead guilty
 - b. "The State's failure to disclose Tayvona Stinson's #07-0242-14 incident report rendered Applicant's decision to plead guilty, involuntary and counsel, alternatively, should have investigated and discovered this incident report and pursuant, to Ward v. Dretke, 420 F.3d 476, 488 (5th 2005) counsel should have made a motion to suppress the drugs based upon the facts contained in the incident report."

2017 APR 24 PM 1:16
 HOPE BLACKLEY

SUMMARY OF TESTIMONY

Applicant testified to the following:

Applicant first met Counsel while he was in the County Jail. He met with Counsel four times, which included an initial meeting, two bond motions, and one meeting to prepare for trial. On April 1, 2015, Counsel met with Applicant and informed him that he was going to trial after lunch that day. However, Counsel did not subpoena witnesses on behalf of Applicant for that day. No one had ever mentioned trial to Applicant until the day of trial. Because Applicant was dressed in his jail uniform, Counsel told Applicant's aunt to bring clothes for trial. Counsel was unprepared for trial, but prepared to have Applicant plead guilty. Applicant claims he ended up in front of the judge to plead guilty although he insisted he was not guilty.

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Applicant wanted Counsel to pursue a motion to suppress based on an unlawful traffic stop. After Applicant reviewed the discovery in his case, he determined the reports from an unrelated incident contradicted the investigative reports in his case. The unrelated case involved a domestic dispute to which police responded. According to the police report, the victim told the investigating officer that her assailant was in a green Honda. Applicant was the passenger of a green Chevy Malibu when they were stopped. The officers who stopped Applicant's car claimed they were stopping the car as part of the investigation of the unrelated domestic dispute. Applicant believes the officers stopped the wrong car and had no reason to stop the car in which he was a passenger. The victim of the unrelated domestic dispute refused to give a statement to police. Applicant did not know the victim.

Despite believing he had a valid defense against the charges, Applicant did not stop the plea hearing because he did not fully know. During a brief pause in the proceeding, indicated on page 7, line 20 of the guilty plea transcript, Applicant testified that he asked Counsel why Counsel was making him plea. Counsel promised him seven years on house arrest. Applicant also had two other pending charges and Counsel advised him that he could be subject to a life sentence based on the number of strikes against him. Applicant claimed that had the witnesses been called by Counsel, he would not have pled, but would have instead gone to trial.

Jackie Praylor (Praylor) testified to the following:

Applicant is Praylor's nephew. She received a call from Counsel at 9:30am the day of trial, requesting that she bring suitable clothes for Applicant to wear for court. Praylor brought Applicant's clothes, as requested. Counsel did not tell her why Applicant was going to court.

Tayvana Stinson (Stinson) testified to the following:

The same day Applicant was arrested, Stinson had an altercation with her boyfriend which resulted in him dragging her from a car. Stinson called 911 and a female officer responded. Stinson told the officer her boyfriend was in a green Honda. She then pointed to another green vehicle that was not the vehicle that her boyfriend was in, and said, "like that!" Stinson did not ever tell the officer her boyfriend was in a Chevy Malibu.

Counsel testified to the following:

Counsel has been practicing criminal law since 2005. He represented Applicant on his criminal charges and recalled meeting with Applicant six to seven times. Counsel received the discovery in this case, including the investigative reports, and reviewed all the discovery with Applicant during the meetings. Counsel remembered Counsel admitted that the week Applicant's case was called to trial was a busy week for him and he was not expecting Applicant's case to be called for trial. Although surprised, Counsel did not request a continuance. Counsel testified that had they proceeded to trial and was unprepared, he would have requested a continuance. Counsel did not subpoena witnesses the day of the trial because they did not have any witnesses they intended to call in Applicant's defense.

Counsel had considered a motion to suppress in this case, based on an unlawful stop. Upon investigation, however, Counsel learned that although the officers were looking for a suspect in a different car, that the victim in the unrelated case, pointed out the car in which Applicant was a passenger and stated that it was the car. Counsel believed that the motion would not have been successful and therefore advised Applicant that it was in his best interest to plead guilty. Counsel negotiated with the State on Applicant's behalf and got the state to recommend a cap of twenty years. Counsel advised Applicant of his constitutional right to a jury trial and advised him that the decision to plead guilty was his alone. Applicant, based upon his advice,

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made the decision to plead guilty. Counsel also discussed the possible penalties for his charges. Counsel never promised Applicant home detention, but told him he would ask the Judge for a home detention sentence, which he did.

APPLICABLE LAW

Ineffective Assistance of Counsel

Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."

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

Involuntary Plea

Applicant alleges that his plea was involuntary. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In Boykin the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. *Id.* at 243, 89 S.Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. *Id.* Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000).

In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984). An applicant who enters a plea on the advice of counsel may only attack the voluntary and

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

Prosecutorial Misconduct

Applicant also alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issue that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Regardless, it is applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

This Court also finds Counsel provided effective assistance in this case. The record indicates that Counsel advised Applicant of all of the charges and the possible sentences the charges carried. This Court further finds that Applicant was fully aware of his rights and those rights that he was waiving. The record also shows that Applicant and his Counsel reviewed discovery and discussed potential defenses. The thorough colloquy by the plea court shows Applicant knew that he was waiving the right to present any defense by pleading guilty. This Court finds Applicant made the decision to plead guilty on his own accord upon the sound advice of learned counsel. Additionally, this Court finds the transcript of record includes a very thorough colloquy by the Court that indicates Applicant made this decision freely and voluntarily without any undue pressure or coercion.

This Court finds Counsel's testimony with regard to fully reviewing all of the discovery with Applicant to be credible, while finding Applicant's claim that he was not aware of some of the discovery to be not credible. The record is clear that during the plea hearing, Counsel indicated that he was aware of a "very compelling" issue to present at pretrial, but that he believed it would ultimately be an unsuccessful argument. Applicant was also present at this plea hearing and did not rebut anything put forth to the plea court by Counsel. Applicant voluntarily waived any suppression hearing by and through a free and voluntary plea. This Court finds that Counsel conducted a thorough investigation of the case and reviewed all of the discovery with Applicant.

This Court recognizes that any defendant is nervous and under pressure during a court proceeding. However, there is no precedent for overturning a conviction or a guilty plea because a party to the action was nervous or under pressure. This Court is reluctant to second-guess a thorough trial court proceeding in favor of self-serving testimony by a PCR Applicant.

R 7 5

Accordingly, this Court finds Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of Applicant. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these allegations are denied and dismissed with prejudice.

With regard to the allegation of prosecutorial misconduct, this Court finds the claim is not appropriate for PCR. Regardless, Applicant has failed to prove actual prosecutorial misconduct. Having not carried his burden to prove actual prosecutorial misconduct, the allegation is denied and dismissed with prejudice.

CONCLUSION

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

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

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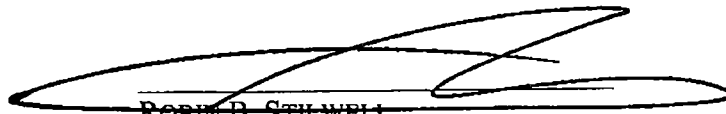
2017 APR 24 PM 1:17
M. HOPE LAMBLE

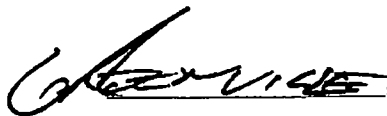
review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The application for Post-Conviction Relief is denied and dismissed with prejudice;
2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 19 day of April, 2017.


ROBIN B. STILWELL
Presiding Judge
Seventh Judicial Circuit

, South Carolina

2017 APR 24 PM 1:17
M. HOPE OLACKEY

Spartanburg County

Spartanburg County Court House
180 Magnolia Street
P. O. Box 3483
Spartanburg, SC 29304-3483



Phone (864) 596-2591
Fax (864) 596-2239

M. Hope Blackley
Clerk of Court

April 24, 2017

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Manuel Ramos Jolly
355715

Applicant

7TH JUDICIAL CIRCUIT

CASE # *2016CP42-380*

MS
Steel
Respondent

CERTIFICATE OF SERVICE

I certify that, on this date, I served a copy of the *Order of Dismissal*
In this action dated *4-19* *2017* on *4-24-17*

By mailing to him/her, at his/her last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Ashley Hester
Becca Oliver
Franklin Wickes

4-24-17
(Date)

Becca Oliver
(Signature)

WITNESSES

SPTBG CITY PUBLIC SAFETY

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANT

6. CHECKED SIGNATURE

7. ASSESSMENT AND
FINE CARD MADE

201444210203168

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

15-GS-42-0475

The State of South Carolina

County of Spartanburg

Barry J Barnette, Solicitor

COURT OF GENERAL SESSIONS

TERM

THE STATE

vs.

MANUEL RASHON JETER

Indictment for

POSSESSION OF COCAINE BASE

SC Code: 44-53-375

2015 FEB -3 AM 9:17

M. HOPE BLACKLEY

SCANNED

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

JAN 29 2015

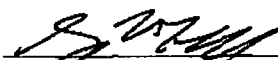
At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

POSSESSION OF COCAINE BASE

That Manuel Rashon Jeter, did in Spartanburg County on or about September 28, 2014 possess or attempt to possess a quantity of Cocaine Base, a schedule II controlled substance, in violation of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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



ASSISTANT SOLICITOR

WITNESSES

SPTBG CITY PUBLIC SAFETY

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ARREST WARRANT NUMBER
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

2014A4210202144

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. **15-GS-42-0384**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

FEB 09 2015

TERM

THE STATE

VS.

MANUEL RASHON JETER

Indictment for

TRAFFICKING COCAINE

SC Code: 44-53-370

2015 FEB -5 AM 9:13

M. NOPE BARNERLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JAN 20 2015, the
Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING COCAINE

That Manuel Rashon Jeter did in Spartanburg County on or about July 9, 2014, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of more than (28) twenty eight grams of Cocaine, a schedule II controlled substance, in violation of §44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR

WITNESSES

SPTBG CITY PUBLIC SAFETY

1. SERVICE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

PRINT CARD MADE

8. TRAFFIC VIOLATION COPY

2014A4210202146

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

15-GS-42-0385

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

FEB 03 2015

TERM

THE STATE

vs.

MANUEL RASHON JETER

Indictment for

RESISTING/ASSAULT POLICE
OFFICER

SC Code: 16-9-320(B)

CDR Code: 256

Class FEL-E

2015 FEB -5 AM 9:13

11. HOLE DECKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

JAN 26 2015

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

RESISTING/ASLT POLICE OFFICER SERV PROC

That Manuel Rashon Jeter did in Spartanburg County on or about July 9, 2014, knowingly and willfully assault, beat and/or wound one Officer A. Bailey, a law enforcement officer of this State, while resisting an arrest, by assaulting and wounding the officer, in violation of §16-9-320 (B), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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



DEPUTY SOLICITOR

Ass. 342