

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Brooks P. Goldsmith, Circuit Court Judge

LA'QUAN DAMON BRYAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001698

APPENDIX

ROBERT M. PACHAK
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

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

ATTORNEYS FOR RESPONDENT

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State of South Carolina) In General Sessions Court
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Vs.) 2014-GS-10-5988
La'Quan Bryan,) 2014-GS-10-5989
Defendant.)

October 13, 2015

Charleston, South Carolina

B E F O R E:

The Honorable W. Jeffrey Young, Presiding Judge

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

Richard Waring, Assistant Solicitor

Attorney for the State

Charles Cochran, Assistant Public Defender

Attorney for the Defendant

SHARON L. VIZER

CIRCUIT COURT REPORTER

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NO EXHIBITS WERE INTRODUCED

1 Tuesday, October 13, 2015

2 THE COURT: All right. Mr. Cochran, you represent
3 Mr. La'Quan Damon Bryan; is that correct?

4 MR. COCHRAN: Yes, Your Honor.

5 THE COURT: Have you had an opportunity to explain
6 to Mr. Bryan the charges contained in his indictments,
7 the possible punishment he faces and his constitutional
8 rights?

9 MR. COCHRAN: Yes, Your Honor.

10 THE COURT: And do you think he's understood what
11 you've told him?

12 MR. COCHRAN: I do.

13 THE COURT: And does he now wish to plead guilty or
14 not guilty?

15 MR. COCHRAN: Guilty, Your Honor.

16 THE COURT: And do you agree with his decision?

17 MR. COCHRAN: I do.

18 THE COURT: Based upon your investigation of the
19 facts and the circumstances do you believe if this trial
20 had continued on as we had that he would be found guilty
21 beyond a reasonable doubt?

22 MR. COCHRAN: Yes, Your Honor.

23 THE COURT: All right. Please place Mr. Bryan
24 under oath.

25 LA'QUAN D. BRYAN, after having been duly

1 sworn, testified as follows:

2 THE COURT: Now, you are La'Quan Damon Bryan; is
3 that correct?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Mr. Bryan, it's my understanding that
6 you now want to plead guilty to the charges of attempted
7 murder and possession of a weapon during the commission
8 of a violent crime; is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You understand we've got a jury coming
11 in at one o'clock who is ready to listen to the facts in
12 this case and make their decision based upon the evidence
13 presented in that trial; do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You are now wishing to waive that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Now, are you under the influence of
18 alcohol or drugs?

19 THE DEFENDANT: No, sir.

20 THE COURT: Are you taking any medication that
21 would cloud your judgment?

22 THE DEFENDANT: No, sir.

23 THE COURT: Are you aware of any physical,
24 emotional or nervous conditions that would keep you from
25 understanding what is happening today?

1 THE DEFENDANT: No, sir.

2 THE COURT: Now, Mr. Bryan, there are two charges
3 that you are pleading guilty to. One under indictment
4 2014-GS-10-5988, attempted murder, which states that in
5 Charleston County, South Carolina on or about March 11,
6 2014 the defendant, La'Quan Damon Bryan, did with intent
7 to kill and malice aforethought attempt to kill Ronald
8 Droze. This is being in violation of Section 16-3-29 of
9 the South Carolina Code of Laws, 1976 as amended. Is
10 what's stated in the indictment the truth?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: The next charge is possession of a
13 weapon during the commission of a violent crime, and
14 under indictment 2014-GS-10-5989 it states that in
15 Charleston County, South Carolina on or about March 11,
16 2014 the defendant, La'Quan Damon Bryan, did possess a
17 firearm or visibly display what appeared to be a firearm
18 during the commission or attempted commission of
19 attempted murder, a violent crime, this in violation of
20 Section 16-23-490 of the South Carolina Code of Laws,
21 1976 as amended. Is what's stated in the indictment the
22 truth?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Solicitor, what are the facts?

25 MR. WARING: Thank you, Your Honor. May it please

1 the Court.

2 THE COURT: Yes.

3 MR. WARING: On March 11, 2014 around 8:15 in the
4 evening the victim, Brad Droze, was with his coworkers,
5 Kenneth Edward and Kristi Ellis. They were at the
6 Dorchester Garden Apartments.

7 THE COURT: And has he been given notice to be
8 here?

9 MR. WARING: Yes, Your Honor, and both of those
10 individuals are here.

11 THE COURT: Okay.

12 MR. WARING: And they were working that night at
13 the Dorchester Garden Apartments. They were clearing out
14 a room getting ready for the next tenant. During that
15 time the defendant and two of his friends showed up in a
16 vehicle, walked past the victims.

17 Soon after, they heard a disturbance, a ruckus,
18 yelling and arguing. The victims went over and
19 approached the defendant and his friends to determine
20 what was going on, told them to leave. The defendant and
21 his friends started leaving. They got in their vehicle,
22 were trying to leave. The victim, Brad Droze, got the
23 license plate number from the vehicle.

24 THE COURT: And which one is Mr. Brad Droze?

25 MR. WARING: He's on the left, Your Honor.

1 THE COURT: Okay.

2 MR. WARING: While he's getting the tag number the
3 defendant and his friends jump out of the vehicle. The
4 driver, the co-defendant, Dartez Ferguson, approaches the
5 victim, starts assaulting him, pushing him, punching him.
6 The victim begins defending himself.

7 At that point, the defendant comes from around the
8 passenger side of the vehicle holding a gun approximately
9 seven, eight feet away, shoots one time at the victim.
10 The victim dives into a ditch, scrambles around, gets on
11 his knees, faces the defendant.

12 The defendant fires a second shot, then goes to
13 fire a third shot after having stepped a little closer
14 and changing the trajectory of the gun. At that point,
15 the witness, Kenneth Edwards, was able to slap the gun
16 out of the defendant's hand. He then picked up the gun
17 and pointed the gun at Kenneth Edwards, who then dove
18 into a different ditch. The defendant and his friends
19 then fled the scene.

20 After that, these two witnesses positively
21 identified the defendant, and the defendant gave a full
22 confession to detectives at North Charleston Police
23 Department. And those are the facts, Your Honor.

24 THE COURT: All right. Mr. Bryan?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Is what he said, what the prosecution
2 said the truth?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Tell me in your own words what you did
5 that violated the law.

6 THE DEFENDANT: I tried to -- I didn't.

7 THE COURT: Tell me.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Or we'll go to trial.

10 THE DEFENDANT: Yes, sir. The shooting at
11 Mr. Droze was true.

12 THE COURT: And you knowingly pointed a gun at
13 Mr. Droze and shot at him?

14 THE DEFENDANT: Not in his direction.

15 THE COURT: So you didn't attempt to kill him?

16 THE DEFENDANT: No, sir.

17 THE COURT: All right. Let's go to trial.

18 MR. COCHRAN: May I have one moment?

19 THE COURT: Yes, sir.

20 (WHEREUPON, Mr. Cochran and the Defendant have a
21 private discussion.)

22 MR. COCHRAN: Your Honor, my client would like to
23 address you.

24 THE COURT: Yes. I'd like to hear what you did
25 that violated the law.

1 THE DEFENDANT: I shot at Mr. Droze.

2 THE COURT: You could have killed him.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And then you would be here looking at a
5 life sentence. Mr. Droze and Mr. Edwards were heros.
6 You tried to kill heros in our town. Our town needs
7 heros and you tried to kill them; is that correct?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You understand that the sentence -- are
10 you, in fact, guilty of these charges?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you understand that the sentence for
13 attempted murder is 20 years and there's no
14 recommendation from the State? Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You understand the charge for
17 possession of a weapon during the commission of a violent
18 crime is five years? Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And do you understand if I decide to
21 run them consecutively I am well within my rights to
22 sentence you to 25 years in jail?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: This is one of the 85 percent.

25 MR. WARING: Your Honor, just to be clear. It goes

1 up to 30 years for attempted murder.

2 THE COURT: Okay. I thought so. Okay.

3 You understand I could legitimately sentence you to
4 30 years in prison?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And you'd have to serve 85 percent of
7 it?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: So I could sentence you to 35 years
10 which would mean that you will spend -- how old are you
11 now?

12 THE DEFENDANT: Nineteen.

13 THE COURT: Nineteen. You'll get out of jail when
14 you're 49 years old; do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Or right around there. Knowing that
17 you still want to plead guilty?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You understand that when you plead
20 guilty you waive certain constitutional rights. The
21 first right you waive is your right against self
22 incrimination. Now, in this court or any other court in
23 this land would you ever be required to testify against
24 yourself; however, when you plead guilty you're doing
25 exactly that. Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: So you wish to waive your right against
3 self incrimination and continue with this plea?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And you are also waiving your right to
6 have a jury trial. Like you saw yesterday, we've got 12
7 primary jurors and two alternates who will be back here
8 at one o'clock who are ready to try the case but if you
9 plead guilty you're waiving that right; do you understand
10 that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you understand that during the
13 trial Mr. Cochran would be able to cross-examine the
14 witnesses presented, would call witnesses on your behalf,
15 could raise any legal defenses that could result in your
16 being exonerated. When you plead guilty you don't get to
17 ask any questions about the evidence and the State
18 doesn't have to prove anything; do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: So do you wish to waive your right to
21 have a jury trial and confront the witnesses against you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Okay. Has anybody threatened you in
24 any way to get you to plead guilty?

25 THE DEFENDANT: No, sir.

1 THE COURT: Has anybody promised you anything to
2 get you to plead guilty?

3 THE DEFENDANT: My lawyer.

4 THE COURT: Yeah? What did your lawyer promise
5 you?

6 THE DEFENDANT: I'd get five, hopefully.

7 THE COURT: You get five? He's promised you you'd
8 get five years in jail?

9 THE DEFENDANT: I mean, that would be the best for
10 -- I mean, a range between five and 10, yes.

11 THE COURT: He said you're going to get between
12 five and 10?

13 You need to go talk with your client.

14 (WHEREUPON, Mr. Cochran and the Defendant had a
15 private discussion.)

16 THE DEFENDANT: No, sir, he didn't.

17 THE COURT: He didn't promise you anything --

18 THE DEFENDANT: No, sir.

19 THE COURT: -- because he doesn't have the power to
20 promise you anything. So you are telling me -- I want
21 you to tell me in your own words that he's not promised
22 you anything in this mater.

23 THE DEFENDANT: He hasn't promised me anything.

24 THE COURT: Okay. You fully understand that I am
25 prepared right now to sentence you to 35 years in jail if

1 I want to?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: So the only reason you are pleading
4 guilty to attempted murder and possession of a weapon
5 during the commission of a violent crime is because you
6 are guilty of that; is that correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Are you satisfied with the services of
9 Mr. Cochran?

10 THE DEFENDANT: As my lawyer?

11 THE COURT: As your lawyer.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Has he done everything that you've
14 asked him to do?

15 THE DEFENDANT: Just about.

16 THE COURT: Okay. He's just about done it. What's
17 the other thing, to get you the five years? That would
18 give you everything you wanted? What has he not done?

19 THE DEFENDANT: I mean, I was -- I looked at the
20 Strong Program. I was looking forward to getting into
21 that. They accepted me but he said the solicitor and the
22 State doesn't want me to.

23 THE COURT: He's just a lawyer. He's not a
24 magician.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And he can't undo what you did on that
2 evening; do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: He can guide you and advise you but the
5 ultimate decision on everything is yours; do you
6 understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: So do you need any more time to speak
9 to Mr. Cochran? We can take a break and come back in a
10 little while if you want to.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You want to take a break?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: We'll take a break.

15 MR. COCHRAN: Thank you, Your Honor.

16 (WHEREUPON, the hearing was recessed.)

17 THE COURT: All right. Mr. Bryan, have you had the
18 opportunity to speak to your attorney?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: So you want to go forward with this
21 plea?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Where were we exactly on this? He was
24 telling me what he did to violate the law. I don't think
25 we got to the point where he was waiving his

1 constitutional rights.

2 MR. COCHRAN: He had already done that.

3 THE COURT: He had already done that. And we
4 talked about the trial. So you don't want to have the
5 trial --

6 THE DEFENDANT: No, sir.

7 THE COURT: -- that's going to start at one
8 o'clock?

9 THE DEFENDANT: No, sir.

10 THE COURT: Are you satisfied with your attorney
11 now?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Have you had ample time to speak with
14 him?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You've asked him all the questions you
17 need to ask him?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And you're ready to proceed?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. Have you understood all of
22 my questions?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you have any questions for the
25 Court?

1 THE DEFENDANT: No, sir.

2 THE COURT: I'm going to give you an opportunity to
3 speak but if you have any specific questions.

4 THE DEFENDANT: No, sir.

5 THE COURT: And so you also understand that on
6 these charges that if you change your mind about your
7 decision to plead guilty or the sentence that I give you
8 you'll only have 10 days in which to file an appeal?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Under indictment
11 2014-GS-10-5988 charging you with attempted murder how do
12 you plead, guilty or not guilty?

13 THE DEFENDANT: Guilty.

14 THE COURT: Under indictment 2014-GS-10-5989
15 charging you with possession of a weapon during the
16 commission of a violent crime how do you plead, guilty or
17 not guilty?

18 THE DEFENDANT: Guilty.

19 THE COURT: All right. I find there's a
20 substantial factual basis for the plea. I find the
21 defendant has entered into it freely and voluntarily,
22 knowingly and intelligently. He has had the advice of
23 counsel with which he says he is well pleased. I will
24 accept the plea.

25 What is his criminal history?

1 MR. WARING: Your Honor, he has no general sessions
2 record --

3 THE COURT: How old was he, 18? Okay.

4 MR. WARING: He does have a minor juvenile record.

5 THE COURT: And what was that for?

6 MR. WARING: It was just some failure to appears
7 and possession of marijuana.

8 THE COURT: Okay. Would the victims like to say
9 anything?

10 MR. WARING: Your Honor, I believe so.

11 THE COURT: Come forward, please.

12 And you are Mr. Droze; is that correct?

13 MR. DROZE: Yes, sir.

14 THE COURT: Please state your name for the record.

15 MR. DROZE: Ronald Droze, Jr.

16 THE COURT: All right, Mr. Droze. What would you
17 like to tell me?

18 MR. DROZE: Sir, I'll keep it short. I was doing
19 my job. I was at work. I had to stay late that day.
20 The defendant showed up at my place of work just like if
21 someone walked here in this courtroom and he tried to
22 kill me, just like if someone walked in here.

23 I know he's young and I know he may be sorry and
24 everything but he tried to steal me away from my family.

25 THE COURT: Tell me about your family.

1 MR. DROZE: I've got a brother, a sister, a mom and
2 dad, niece and nephew. My nephew is six years old. My
3 niece is 11. My nephew wouldn't even have known me. I
4 play soccer with him. My niece likes horseback riding.
5 I take her horseback riding on Johns Island. That's
6 where we all live. I've got countless aunts and uncles.
7 My father actually had 13 brothers and sisters.

8 THE COURT: Okay.

9 MR. DROZE: So a big family. And for nothing. I
10 didn't provoke this. I didn't do anything wrong.

11 THE COURT: You were actually trying to be a good
12 citizen --

13 MR. DROZE: I was.

14 THE COURT: -- and find out what was going on.

15 MR. DROZE: I was, and he tried to take me away
16 from all that. And I don't know the value of a man's
17 life. I don't think anybody in this room does. I think
18 that you probably have the most knowledge legally when it
19 comes to that.

20 THE COURT: I don't know what a person's life is
21 worth. I know the value --

22 MR. DROZE: Well, legally. Legally. And so just I
23 ask that the verdict would be would be equal to what the
24 crime was.

25 THE COURT: Thank you.

1 MR. DROZE: That's it, sir.

2 THE COURT: Yes, sir? Would you like to say
3 anything?

4 MR. EDWARDS: No. I don't really have too much to
5 say.

6 THE COURT: And what's your name?

7 MR. EDWARDS: Kenneth. Kenneth Edwards.

8 THE COURT: Edwards. Mr. Edwards, the other victim
9 in this mater?

10 MR. EDWARDS: Yes, sir. Like I said, we were
11 working and it was stupid. I just hope that he learned
12 his lesson and, you know, become a better man from what's
13 going on. That's about it, I guess. I really don't have
14 too much to say.

15 THE COURT: Mr. Cochran?

16 MR. COCHRAN: Thank you, Your Honor. May it please
17 the Court. Thank you for your patience. La'Quan is
18 extremely nervous today. I can tell you that, you know,
19 any hesitation that might have taken place during the
20 plea today has not been because of desire to go to trial.

21 Since we've had this case I've been representing
22 him for 575 days. He's been in jail for that entire
23 time, and the entire time he's wanted to enter into a
24 guilty plea. He was put onto one plea docket and he was
25 essentially in the same position as he was now. The

1 State at that point was requesting a very significant
2 sentence.

3 I think really what happened was La'Quan was still
4 holding out hope for better negotiations and he has
5 written to Strong and the Strong Program will respond to
6 inmates and basically give them, you know, hope that they
7 are going to be accepted. So I think that he took that
8 as, you know, acceptance to that and a potential
9 sentence. And, you know, I've explained to him that that
10 was not a possibility given our circumstances.

11 Your Honor, I would like to address what the second
12 victim talked about, which was whether or not La'Quan has
13 learned his lesson and if he can become a better man for
14 this because I understand that with a case like this Your
15 Honor is going to be mostly concerned with when he gets
16 out of prison what's he going to do. Is he going to go
17 back to what he was doing or is he going to move on?

18 His mother and his grandmother are here today, and
19 I also spoke with his stepfather and spoke with all three
20 of them at length, and I've spoken with La'Quan at length
21 many times. You know, I talked to his mom in trying to
22 get to the bottom of why this escalated this much that
23 day. This all started with an argument between La'Quan
24 and his mother. This was his grandmother's apartment
25 complex. He got into an argument with his mother. They

1 were leaving, and his friend, actually, got into --
2 attacked one of the victims and Mr. -- my client, you
3 know, escalated the situation totally unreasonably and he
4 understands that.

5 And I tried to get to the bottom of that with his
6 mother and she talked about his involvement basically
7 with what Your Honor hears all the time, the wrong crowd,
8 and she described La'Quan as a follower. And, you know,
9 he was 18 years old when this occurred. He's 19 years
10 old now. And even with the minimum sentence he's going
11 to be in his mid 20's when gets out, even if he were
12 to --

13 THE COURT: He's not getting a minimum sentence.

14 MR. COCHRAN: Yes, Your Honor, and I understand
15 that and I've gone over that with him and I've gone over
16 with his family the possibility of the maximum sentence,
17 you know, that we really have no idea how Your Honor is
18 going to sentence.

19 But if he gets out within a reasonable amount of
20 time, you know, if he's still in his 20's, the growth from
21 when he's 18 to, you know, mid, late 20's is a tremendous
22 amount of time to mature and grow. And he has a very
23 supportive family. You know, his mother works, his
24 stepfather has been working at Crosby Seafood for 10
25 years. You know, his grandmother is a very positive

1 force in his life.

2 And what I've been talking to them about is, you

3 know, when he gets out what will he be able to do.

4 Everybody is on board to accept him back in the family.

5 You know, try to get him employment, try to get him

6 something so that he'll be able to move on from this.

7 You know, he wants to -- he's been working to get his

8 GED. He still wants to accomplish that. He wants to get

9 certified as a welder.

10 He has no record and he was 18 when this happened.

11 You know, I wish that he was one of these guys that was

12 coming in for a Turning Leaf Program. I wish that he

13 could have gotten a YOA or been in the Strong Program.

14 And he's always wanted to accept responsibility.

15 He confessed to the police when he was arrested. You

16 know, so he takes that responsibility and he took it that

17 day when he spoke to the police. And he understands what

18 he did. He understands that, you know, had the bullets

19 gone in a different direction he would have not had an

20 opportunity for a second chance, you know, if he was

21 looking at a murder charge. And the best thing that came

22 out of this case, obviously, is that nobody got hurt and

23 that --

24 THE COURT: He had nothing to do with that.

25 MR. COCHRAN: And, Your Honor, he didn't and he

1 understands that and, you know, it's impossible to kind
2 of climb into his head and kind of get a good
3 explanation. And I've tried talking to him, talking to
4 his mom. It just -- it escalated to a point and his life
5 had kind of gotten so off track that I think it
6 culminated to this. And what we would ask is that, you
7 know, because he essentially got lucky and didn't
8 seriously injure somebody that he gets some kind of a
9 second chance. Obviously, Your Honor, I informed my
10 client I was going to at least request the minimum.

11 THE COURT: Yeah. Absolutely. You have a right to
12 do that. You'd be a bad lawyer if you didn't.

13 MR. COCHRAN: And, Your Honor, we understand that
14 you are not inclined to give the minimum sentence. What
15 we would ask if you are not inclined to give the minimum
16 sentence that you consider something between five and 10
17 years. You know, given his age he's -- we would like the
18 opportunity for him to still be in his 20's, for him to
19 get out not institutionalized and have some opportunity
20 to get back with his family. His one-year-old son was
21 born while he was in jail, and be a father figure and be
22 a role model, be a productive citizen.

23 You know, Mr. Droze was gracious enough to accept
24 my phone call last night and I spoke to him and he was
25 very polite, very understanding of my job. He didn't

1 want to talk a lot to me about the case, which I totally
2 understand and respect, and I don't know that either of
3 the victims really has a specific number in mind. So I
4 would ask for a specific number. You know, I would ask
5 for 10 -- somewhere in the range of seven to 10 knowing
6 that Your Honor does not want to give the minimum in this
7 case.

8 I know the solicitor is going to add or that he was
9 planning to add, you know, potential gang affiliation --

10 THE COURT: Well, actually, he could have had two
11 attempted murder charges but they only did one. He shot
12 at both of these men, didn't he?

13 MR. WARING: Your Honor, to be clear, he shot at
14 Mr. Droze but he did point the gun at Mr. Edwards. So he
15 could have had an additional pointing and presenting at
16 least.

17 THE COURT: Okay.

18 MR. COCHRAN: And, Your Honor, the solicitor
19 informed me that he was going to also address Your Honor
20 about my client's Facebook page, some stupid things he
21 said about guns and shooting people on his Facebook page.
22 He doesn't have gang affiliation. All of that goes back
23 to the bad crowd that he was running with.

24 Your Honor, he's been in jail for 575 days and he's
25 going to be in jail for a lot longer. You know, the

1 first five years of this charge has to be day-for-day.
2 The statute for the gun charge actually demands that each
3 day of that five years be served, and then after that's
4 85 percent with no possibility of parole of whatever he
5 gets.

6 So, Your Honor, he's had a lot of time to think
7 about this. His mother is not the type of person that
8 even if she was of the means to bond him out she wasn't
9 going to bond him out. She wanted him to sit and think
10 about this and turn his life around.

11 But we ask Your Honor that he's able to turn his
12 life around outside of prison within a reasonable amount
13 of time. Respectfully, Your Honor, therefore, we would
14 request somewhere seven to 10 years, and that's all we
15 have. And his mother would like to --

16 THE COURT: Would he or his mother like to speak?

17 MR. COCHRAN: Yes, Your Honor.

18 THE DEFENDANT'S MOTHER: My name is Lakia Bryan
19 White.

20 THE COURT: Yes, ma'am.

21 THE DEFENDANT'S MOTHER: La'Quan, you know, I
22 understand what he did was very wrong. You know, he
23 could have took this man from his family but, you know,
24 I've tried so many times with La'Quan, you know, through
25 counseling. La'Quan had got with the wrong kids. It

1 happened at Military Magnet. You know, we went through a
2 lot with him. It's just that he's a good kid. I mean --

3 THE COURT: Right up until the time he pulled the
4 trigger.

5 THE DEFENDANT'S MOTHER: -- A, B honor roll
6 student. Yes, sir. It's just that, you know, now, like
7 the lawyer said, I could have took La'Quan out of jail
8 but I wanted him to realize that, you know, hanging with
9 the wrong crowd, you know, La'Quan was on marijuana and
10 whatever else he could have been on. You know, that's
11 not the way at all.

12 You know, the streets, I've never raised him up
13 like that. He always has been in church. You know, good
14 kid. It's just that, you know, hooked up with the wrong
15 crowd. You know, started disobeying the house rules,
16 disobeying me and his father, and, you know, he wanted to
17 go astray. So, you know, I told La'Quan, you know, hey,
18 you know, you have to graduate from school and college.
19 That's the way the rules will be.

20 I have, you know, three other kids. They love this
21 brother. They look up to him. You know, I have to lie
22 to them and tell them La'Quan is living some place else.
23 I don't want them to know my son is in jail for something
24 that's going on every day right now.

25 You know, I want him to face responsibility for

1 what he did. I will be very wrong to say I don't want
2 him to spend no time for that. Yes, I want him to face
3 that responsibility but I really want him to be a better
4 father, you know, for his child, to raise his child up in
5 a better manner, you know, and a positive possibility
6 where he can.

7 You know, I've tried. You know, my mom, you know,
8 he has very strong family support of all of my brothers
9 in the military. You know, he have his grandmother, his
10 grandfather and was devastated, you know, for us to see
11 La'Quan that day and what he did.

12 And, you know, like I said, you know, I want to,
13 you know, apologize on my behalf for what my child did.
14 You know, I never raised him up, you know, to be like
15 that at all. You know, I didn't send him out there on
16 the streets to do things like that.

17 Drugs is not in my family. I never -- you know,
18 even through high school all of my friends never did
19 drugs. That was not me and I didn't raise my kids like
20 that. I have four kids. And, you know, I do apologize
21 for what he did, you know, on my behalf.

22 La'Quan is a really good kid, a really good kid.
23 He was just around the wrong people. You know, he just
24 started hanging with the wrong crowd, and I apologize. I
25 do apologize.

1 MR. COCHRAN: And, Your Honor, you know, our main
2 point, obviously, is with a mother like this, with a
3 family like this and with his age he has the opportunity
4 to reform. He can get there, and we are just asking Your
5 Honor to give him a sentence that gives him that
6 opportunity.

7 THE COURT: Anything further from the State?

8 MR. WARING: Just briefly, Your Honor. In regards
9 to his being a poor shot, we don't believe that he should
10 necessarily be rewarded for the fact that he is not a
11 good shot. Mr. Droze was talking about his family and
12 everything. I mean, it's a miracle he was not killed
13 that day. So we don't think that he should necessarily
14 be rewarded for that.

15 I think it's also important to bring up,
16 Mr. Cochran had already mentioned it before, there is
17 evidence of gang affiliation. He's on Facebook holding
18 guns talking about shooting cops. I mean, there's gang
19 affiliation there, Your Honor. We think that's also
20 important.

21 This is a very serious case. It's lucky it's not a
22 murder case. Given the facts of the case we believe that
23 a sentence in the upper end of the spectrum would be
24 appropriate, Your Honor.

25 THE COURT: You know, every day on the news we hear

1 of somebody using a gun to shoot somebody and we all go,
2 What the heck is going on here? It's the gun's fault.
3 It's the gun's fault.

4 It's not the gun's fault. It's criminals' fault.
5 People who come and do this type of thing, you are so
6 lucky that you are not facing life in prison from killing
7 Mr. Droze. The only reason I'm not giving you the
8 maximum is because I want this to be over for Mr. Droze.
9 I think Mr. Droze needs to go on.

10 But this has got to stop. And I'm sorry it fell on
11 me at this time but the sentence is that you be committed
12 to the State Department of Corrections for 20 years on
13 the attempted murder charge; and that you be committed to
14 the State Department of Corrections for five years on the
15 gun charge. These will be served consecutively. Good
16 luck.

17 (WHEREUPON, the hearing was concluded.)

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C E R T I F I C A T E

I, Sharon L. Vizer, Official Court Reporter for the Ninth 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 the evidence introduced in the hearing of the captioned case in Circuit Court on the 13th of October 2015.

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

July 10, 2016

s/Sharon L. Vizer

SHARON L. VIZER

CIRCUIT COURT REPORTER

2016-CP-10-2024

FORM 5

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Charleston)
)
 La'Quan Bryan)
 Full name and prison number (if any) of Applicant.)
)
 v.)
)
 State of South Carolina)
)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR POST-CONVICTION RELIEF

2016 APR 18 AM 4:07
 JUDGE
 CLERK OF COURT

FILED

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 LEC Correctional Instai.
2. Name and location of Court which imposed sentence Charleston County Court of General
3. Name(s) of co-defendant(s) (if any) Dartez Lamart Ferguson
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Attempted Murder "ARREST # 2014A1010201326"
 - (b) POSS. OF WEAPON "ARREST # 2014A1010201327"
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) October 13, ^{CB} ~~2015~~ 2015 - 20 YEARS
 - (b) October 13, 2015 - MANDATORY 5 YEARS

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) my attorney advised me to file a PCR.
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance Counsel
- (b) Involuntary Guilty Plea
- (c) _____

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

- (a) Counsel Advice was wrong
- (b) Judge Refused to withdraw guilty plea
- (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. _____
- iii. _____
- iv. _____

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

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

(c) the disposition thereof:

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

iv. _____
(d) the date of each such disposition:

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

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

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

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

NO

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

(a) which grounds have been presented:

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

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

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

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

- (a) MY ATTORNEY ADVISED ME TO FILE A PCR
- (b) _____
- (c) _____

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

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

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

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

i. Charles Cochran

ii. _____

iii. _____

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

i. Guilty Plea and Sentencing

ii. _____

iii. _____

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

Vacate Conviction

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

No

STATE OF SOUTH CAROLINA)

County of CHARLESTON)

VERIFICATION

I, LA QUAN BRYAN, 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.

LaQuan Bryan

SWORN to and subscribed before me this 13
day of April, 2016.

Debra Eastridge (L.S.)
Notary Public

My Commission Expires: 3/3/2024

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

I, JaQuan Bryan, 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.

JaQuan Bryan
Applicant

SWORN or affirmed to and subscribed before me this
13 day of April, 2014.

Debra Eastwood
Notary Public

My Commission Expires: 3/3/2026

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)
)
 La'Quan Bryan, #365656,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT

2016-CP-10-2024

RETURN

Respondent, making its Return to the application for post conviction relief (PCR) filed April 18, 2016, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. Applicant was indicted by the October 2014 term of the Charleston County Grand Jury for one (1) count of Possession of a Weapon During the Commission of a Violent Crime (2014-GS-10-05989) and one (1) count of Attempted Murder (2014-GS-10-05988). Charles Cochran, Esquire represented Applicant. On October 13, 2015, Applicant pled guilty as indicted. The Honorable W. Jeffrey Young sentenced the Applicant, without negotiation or recommendations, to incarceration for five (5) years for the count of Possession of a Weapon During the Commission of a Violent Crime and twenty (20) years for the count of Attempted Murder. The sentences are set to run consecutively. The Applicant did not appeal his conviction and sentence.

Attached herewith and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina

Department of Corrections, the application, and the guilty plea transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "Ineffective Assistance Counsel (sic)"
2. "Involuntary Guilty Plea"

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

Applicant's remaining claims is an allegation that his guilty plea was not voluntarily made. Respondent submits that Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant 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 defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging

that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why she should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact, which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

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

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held on Applicant's allegations.

{Signature on Following Page}

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

JOHANNA C. VALENZUELA
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON
Assistant Deputy Attorney General

By: 

ATTORNEYS FOR RESPONDENT

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

July 28, 2016.

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

LA'QUAN BRYAN, #365656)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS

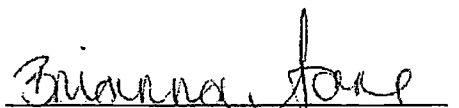
2015-CP-10-2024

AFFIDAVIT OF SERVICE BY MAIL

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

James K. Falk, Esquire
 Falk Law Firm, LLC
 Post Office Box 1058
 Charleston, South Carolina 29402

DATED this 28th day of July, 2016.


 Brianna Arnone, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)	THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	DOCKET NO. 2016-CP-10-2024
)	
)	
LA'QUAN BRYAN)	
)	
Applicant)	
)	
vs.)	
)	
STATE OF SOUTH CAROLINA)	
)	
Respondent)	
)	
)	
)	
)	
)	TRANSCRIPT OF RECORD

April 21, 2017
 Charleston, South Carolina

B E F O R E:

THE HONORABLE BROOKS P. GOLDSMITH

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

JAMES K. FALK, ESQ.
 Attorney for the Applicant

ALICIA OLIVE, ESQ.
 Attorney for the State

JOYCE C. RUEGER, CVR-M
 Circuit Court Reporter

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No exhibits entered into evidence

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing
April 21, 2017

1 PROCEEDINGS

2 MS. OLIVE: Thank you, Your Honor. May it please
3 the court? This is La'Quan Bryan, 2016-CP-10-2024. Mr.
4 Bryan was indicted in October 2014 for attempted murder
5 and possession of a weapon during the commission of a
6 violent crime. He was represented by Charles Cochran.
7 On October 13, 2015 he pled guilty as indicted before
8 Judge Jeffrey Young. Judge Young sentenced him to twenty
9 years for attempted murder and a consecutive term of five
10 years for possession of a weapon during the commission of
11 a violent crime.

12 He filed this application -- he did not appeal his
13 conviction or sentence. He filed this application for
14 post conviction relief on April 20 -- excuse me April 18,
15 2016 alleging ineffective assistance of counsel and
16 involuntary guilty plea. Mr. Bryan is present in the
17 court room today and is represented by James Falk. I'll
18 turn it over to Mr. Falk at this time.

19 THE COURT: Mr. Falk?

20 MR. FALK: Yes, Your Honor. I don't know if you
21 want me to summarize our arguments first or if I should
22 just call our first witness? Everybody is ---

23 THE COURT: --- well, I couldn't tell exactly
24 what this specific argument was so yes, you probably
25 better ---

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing
April 21, 2017

1 MR. FALK: --- Your Honor, as I reviewed the
2 transcript, one I'm not even sure that there was even a
3 factual basis for the guilty plea and that's something
4 that I'm going to go through with his trial counsel.
5 But, I believe that he pled guilty in this case and his
6 decision to plead guilty was based on inaccurate advice
7 that he had gotten from his trial counsel. And the whole
8 issue, this is a case where there was a shooting ---

9 THE COURT: --- right ---

10 MR. FALK: --- and nobody was hurt. But, there
11 clearly was a shooting and the -- and he was charged with
12 attempted murder. And so there's the -- there was
13 certainly an issue. And if you look at the trial
14 transcript, my client had some difficulty even coming,
15 you know, with the fact of whether or not he had any
16 intent to kill which is obviously the requirement for
17 attempted murder. And as you look at the transcript it
18 kind of broke down for a moment there and that's when I
19 believe Mr. Cochran possibly gave him some inaccurate
20 advice and so ---

21 THE COURT: --- okay. Now I understand ---

22 MR. FALK: --- right.

23 THE COURT: All right, let's go ahead.

24 MR. FALK: So I'd like to call Mr. Cochran to the
25 stand.

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing
April 21, 2017

1 [Whereupon, Mr. Cochran comes forward]

2 [Whereupon, the witness is duly sworn by the Clerk
3 of Court]

4 CLERK OF COURT: Thank you and once seated if you
5 can state your first and last name and spell out your
6 last name please.

7 THE WITNESS: Charles Cochran, C-O-C-H-R-A-N.

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La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Charles Cochran-Direct Examination by Mr. Falk
April 21, 2017

1 CHARLES COCHRAN,
2 Having been first duly sworn,
3 Was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. FALK:

6 Q. Mr. Cochran, you were appointed to represent my
7 client?

8 A. Yes.

9 Q. And as part of your representation, did you review
10 his prior criminal record?

11 A. I did.

12 Q. Do you have a recollection of what that was?

13 A. I believe he had no adult convictions, no adult --
14 possibly no adult arrests other than maybe something
15 minor like a marijuana charge or something like that.

16 Q. Okay. So this was his first serious General
17 Sessions charge, is that correct?

18 A. Yes.

19 Q. Okay. And you had an opportunity to review the
20 discovery in this case, is that correct?

21 A. I did.

22 Q. And based on your review of the discovery you had
23 heard -- I gave a characterization of what I thought the
24 facts were but is that relatively accurate that there was
25 a shooting at an apartment complex?

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Charles Cochran-Direct Examination by Mr. Falk
April 21, 2017

1 A. Yes.

2 Q. And that, there were two volunteers we'll call them
3 or two people who came up to my client and somebody else
4 and...

5 A. Yeah. From my recollection it was -- everything
6 stemmed from an argument between my client and his mother
7 and grandmother. It was his grandmother's apartment
8 building where she lived.

9 And during the course of that argument while they
10 were walking out into the parking lot two employees, I
11 don't know if they were security or groundskeepers or
12 something -- two employees of the apartment building or
13 three employees of the apartment building walked over and
14 sort of intervened in the argument.

15 Q. Was -- did my client hit either of them? Was there
16 any type of physical altercation between my client and
17 one of the victims?

18 A. From my recollection, no. From my recollection, Mr.
19 Bryan and another friend -- there were three -- he had --
20 there with two friends.

21 Him and another friend got into a car to leave and
22 that the third friend got into a fist fight or some kind
23 of physical altercation with one of the apartment
24 employees. And then at that point I believe Mr. Bryan
25 got out and fired off I think it was like three shots.

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Charles Cochran-Direct Examination by Mr. Falk
April 21, 2017

1 Q. Was anyone hit by any of the bullets?

2 A. No.

3 Q. So, is your recollection was there any injury to any
4 of the apartment complex employees as a result of Mr.
5 Bryan's actions?

6 A. No.

7 Q. The only injury was the shots fired in that
8 direction, is that correct?

9 A. Right.

10 Q. All right. So what was your -- is it, the way I
11 look at the transcript it looks like you had already
12 picked a jury that day?

13 A. Okay, I don't remember actually picking the jury. I
14 remember that we were ---

15 Q. --- or maybe they had already qualified the jurors?

16 A. Yeah, the jurors qualified. We were in trial court
17 ready to go to trial, ready to at least pick a jury. We
18 may have actually picked the jury.

19 He had been to plea court one other time with a plea
20 offer which was essentially a straight up plea with a
21 significant prison time recommendation from the Solicitor
22 of 17 years.

23 He did not go forward with the plea that time. That
24 was in September -- it was on September 8 of 2015 and
25 then the Solicitor called the case to trial on October 12

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Charles Cochran-Direct Examination by Mr. Falk
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1 of 2015, about a month later. Yeah, so we -- I mean he
2 had asserted his right to trial; we were ready to go to
3 trial.

4 Q. And what was your defense going to be at trial, do
5 you recall? What was your strategy?

6 A. The main defense was that there was no intent to
7 kill. That these were shots fired -- I think we were
8 going to admit and probably Mr. Bryan was going to
9 testify to discharging the firearm, but that he was in
10 pretty close proximity to all the parties involved being
11 his co-defendants or the people that were with him, the
12 apartment employees, his mother, his grandmother, that
13 nobody was hit.

14 A firearm was discharged, but that he was not
15 intending to kill anybody; that would have been the
16 defense.

17 Q. Okay. And so what led to your decision to plead or
18 suggest that he plead in this case?

19 A. You know, I discussed with Mr. Bryan, you know just
20 the general potential benefits of pleading guilty. You
21 know, the common wisdom being that if you plead guilty
22 you will receive, potentially, a more favorable sentence
23 than if you are convicted at trial.

24 We discussed that and we discussed what could be
25 accomplished at trial. In particular we talked about the

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1 lesser includeds of attempted murder and within the
2 lesser includeds of attempted murder are assault and
3 battery of a high and aggravated nature which is a zero
4 to 20 felony and assault and battery first degree, which
5 is a zero to 10 felony. And all of those could
6 potentially carry a consecutive five years with a gun
7 charge.

8 So, basically what I told Mr. Bryan was, you know
9 look, if we go to trial and we convince the jury that you
10 did not have an intent to kill this guy, but they believe
11 that you discharged this firearm and put people's lives
12 in danger the best thing you can probably hope for is
13 getting convicted of assault and battery of a high and
14 aggravated nature which could carry a consecutive, if
15 stacked consecutively, twenty-five year sentence which is
16 what he ended up getting.

17 Since that time -- so basically I was saying, you
18 know, we would go for something less straight not guilty
19 or something other than that, but that the best we could
20 probably hope for would be a conviction to assault and
21 battery of a high and aggravated nature.

22 Q. All right. Let me stop you right there. Do you
23 have a copy of the transcript with you up there?

24 A. Yes.

25 Q. If you could look around on page eight where

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1 starting on line four, I believe Judge Young is asking my
2 client here sort of a factual basis?

3 A. Yeah. Yeah, so I think I'm not too familiar with
4 Judge Young, but some judges do this and I think he was
5 being abundantly cautious because this was on the trial
6 docket.

7 So he didn't just ask him are you pleading guilty
8 because you are really guilty, he asked him to say what
9 he did to break the law. And I believe at this point the
10 -- at this point the prosecutor already recited their
11 factual allegations, so Mr. Bryan heard that and the
12 judge asked him tell me in your own words what you did to
13 violate the law.

14 And Mr. Bryan was saying I tried to, I didn't and
15 the court says tell me and he says yes sir and he says or
16 we'll go to trial. He says yes sir; the shooting at Mr.
17 Droze was true. So he was admitting firing the gun in
18 the vicinity of Mr. Droze the victim. And he said you
19 knowingly pointed the gun at Mr. Droze and shot at him?
20 And he says not in his direction.

21 Now, this is something that we had discussed in
22 private, Mr. Bryan and I. And the judge then said so you
23 did not attempt to kill him. And the defendant said, no
24 sir. Do you have follow up questions or do you want me
25 to continue?

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1 Q. No, all right. So just right here my client said no
2 sir and then as judges sometimes say all right let's
3 bring the jury in.

4 A. Right.

5 Q. And then you had a conversation with my client.

6 A. Yeah.

7 Q. Or your -- both of our client, right?

8 A. Right.

9 Q. Unfortunately that's not recorded, obviously on the
10 record, do you have a recollection of what that
11 conversation was about?

12 A. I don't have a specific recollection. I can tell
13 you what I almost certainly talked to him about because
14 this isn't uncommon in pleas.

15 And, what I will typically say to a client in a
16 situation like this is, you know, remember that we
17 decided to go forward with this guilty plea; this is what
18 you decided you wanted to do. And remember that I told
19 you if you plead guilty you have to admit guilt to all
20 the elements of the crime.

21 And probably just asked him, you know, do you want
22 to plead guilty or pick the jury that's standing outside
23 and go forward with the jury trial. And apparently we
24 decided, or he decided that he wanted to keep going
25 forward with the plea.

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1 Q. Earlier you talked about discussing your relative
2 risks of going forward, possibly, with a trial and ---
3 A. --- right ---
4 Q. --- getting a conviction on ABHAN. Is this part of
5 this conversation at this time do you think?
6 A. Potentially, I mean, we certainly would have --
7 everything would have been influenced by our discussions
8 about potential sentencing ---
9 Q. --- okay ---
10 A. --- you know, and getting and basically whether we
11 were going to keep going forward with this plea and
12 really try to get the judge to give him something
13 reasonable in our eyes or try our chances at trial.
14 And in trying our chances at trial we had already
15 determined the best we could probably hope for was a
16 twenty or twenty-five year sentence if he won,
17 technically.
18 Q. And that was based on your ---
19 A. --- that was based on my understanding of the law of
20 attempted murder and ABHAN.
21 Q. Okay. And let's just go forward; if we could go on
22 to page nine. My client or Mr. Bryan said first line on
23 page nine of the transcript: I shot at Mr. Droze. And
24 the court said: You could have killed him. And he said:
25 Yes sir.

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1 A. Yeah.

2 Q. Is there -- other than that statement is there
3 anything in there that would, for my client, said I shot
4 at Mr. Droze because I wanted to kill him or just I shot
5 in the direction?

6 A. No. From my recollection and from reviewing the
7 transcripts, Mr. Bryan never said that he wanted Mr.
8 Droze dead; that he was trying to kill anybody.

9 Q. Okay.

10 A. And that would have been our defense at trial.

11 Q. Okay. So, you -- I guess you alluded to I guess we
12 discussed the fact that ABHAN requires an injury to the
13 victim, is that not correct?

14 A. Correct.

15 Q. For example, if I'm looking at Anderson's request of
16 criminal charges and in section 2.1(a) where it describes
17 assault and battery of a high and aggravated nature, a
18 person commits the offense of assault and battery of a
19 high and aggravated nature if the person unlawfully
20 injures another person and a great bodily injury to
21 another person results or the act is accomplished by
22 means likely to produce great bodily injury.

23 So, would you agree that actually ABHAN requires
24 some injury and that the injury be either a great bodily
25 injury or it could have been a great bodily injury

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1 because of the way it's inflicted? I mean it's ---
2 A. --- yes ---
3 Q. --- you hit the guy in the leg and it was a flesh
4 wound but that's still ABHAN because you could have
5 killed him with the shot?
6 A. Right. Yep.
7 Q. Okay. But we have no injury in this case.
8 A. There is no injury in this case.
9 Q. Okay. Are you --
10 MR. FALK: If I could just approach, Your Honor?
11 THE COURT: Certainly.
12 MR. FALK: I'm going to hand Mr. Cochran a
13 printout of 16-3-600 the assault statute.
14 Q. [Mr. Falk] I'm going to show you 16-3-600 paragraph
15 (c) and I believe that lays out what the elements are of
16 first degree assault and battery.
17 [Whereupon, the witness is shown document]
18 A. Right. And so -- yeah, first degree assault and
19 battery is a zero to 10 felony, which carries nonviolent
20 time as opposed to violent time for ABHAN and attempted
21 murder.
22 This includes the offer or attempt to injure
23 language that all of the other assault and attempted
24 murder statutes include except for ABHAN.
25 Q. Okay. So assault and battery first is probably

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1 more -- that's more consistent with what your trial
2 strategy was going to be isn't it?

3 A. According to Mr. Bryan, if you believe Mr. Bryan and
4 what -- if you believe what he said was true in his
5 version of the events he is guilty of assault and battery
6 first degree.

7 Q. Okay. And, as you said that would have carried a
8 max -- if he'd gone to trial that would have carried a
9 maximum of 10 nonviolent ---

10 A. --- correct ---

11 Q. --- however, he pled guilty to attempted murder; got
12 a twenty-year violent sentence -- got a twenty-five year
13 sentence that's violent?

14 A. Correct. And that was what I just said that if you
15 take Mr. Bryan's testimony as true, he is guilty of
16 assault and battery in the first degree. That is not
17 what I told him in my advice as whether to plead guilty
18 or go to trial.

19 I told him that if you took his statements and his
20 testimony as true and if you believed him that he was
21 guilty of assault and battery of a high and aggravated
22 nature and that is flat out wrong.

23 Another lawyer in my office is the one who brought
24 this to my attention and when he told me that I was
25 skeptical and then he showed me the language and the case

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1 law that goes along with it and I was stunned because I
2 was completely inaccurate in my advice in Mr. Bryan's
3 decision to go forward with his plea.

4 Q. I guess the question I need to ask is had you had a
5 better understanding of the requirements for ABHAN and
6 the potential sentencing range for assault and battery
7 first would you still have told him to plead guilty or
8 would you have made any kind of recommendation?

9 A. I would have -- it would have drastically changed my
10 advice as to whether to plead guilty or go to trial. And
11 because, you know, I never especially with a case like
12 this where you're looking at this kind of a sentencing
13 range.

14 You know, I never tell a client you need to plead
15 guilty or you need to go to trial and I certainly would
16 never, you know, sometimes you'll tell a client you
17 really, really should take this deal.

18 Only, maybe, I don't even think I've ever told a
19 client you really should go to trial because I think
20 that's probably somewhat reckless and if they want to go
21 forward with a plea and, you know, try to get the best
22 sentence they can then that's their decision.

23 So, I wouldn't have told him to go to trial, but it
24 would have drastically changed my thinking about our
25 chances at trial and what we were hoping to accomplish at

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1 trial. Because my, you know, my thinking is if his
2 testimony was taken as true and ABHAN was the conviction
3 I was basically presenting it to Mr. Bryan like there was
4 no point in going to trial when there was, you know.

5 If you're going for ABHAN, if you're going for A and
6 B First instead of attempted murder there's a huge point
7 in going to trial if you're contending that you didn't
8 try to kill anybody ---

9 Q. --- right ---

10 A. --- and he did have, you know, it wasn't just Mr.
11 Bryan's word either. He did have witnesses to support
12 that. His grandmother and his mother both witnessed
13 this.

14 Q. And they were, that was actually -- they were really
15 the source of the altercation ---

16 A. --- yeah ---

17 Q. --- that brought everybody to the apartment ---

18 A. --- right ---

19 Q. --- complex that night ---

20 A. --- right ---

21 Q. --- is that correct?

22 A. Yes.

23 Q. If you could just look at also on page nine, line
24 twelve.

25 [Whereupon, the witness reviews document]

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1 A. Yes. The court mistakenly informs Mr. Bryan that
2 his sentence for attempted murder is twenty-years instead
3 of 30 years.

4 Q. Did you bring that to anybody's attention?

5 A. I believe that was Mr. Waring that corrected the
6 judge a little bit later on in the plea ---

7 Q. --- okay ---

8 A. --- that it's actually a 30 year maximum.

9 Q. Okay.

10 A. Mr. Waring is the prosecutor.

11 Q. Did you consider -- preparation for a case like this
12 did you consider looking at what sort of sentencing
13 ranges, you know, comparable sentencing ranges that
14 somebody could get for attempted murder under these
15 facts?

16 A. Not in preparation for this case, not in preparation
17 for this plea. Since then, you know, I do feel that I
18 should have done that given the wide range of potential
19 sentences in a case like this.

20 You know, you typically I think will see in one
21 example would be felony D-U-I cases where lawyers will
22 essentially research comparable sentences that people
23 similarly situated would get in advocating for their
24 clients at a plea. You know, these attempted murder
25 cases vary so widely in terms of what the actual

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1 accusations are. One thing I could have done was look at
2 a similarly situated teenager, no record, nobody hurt,
3 with a discharge of a firearm.

4 Because I would venture to say a twenty-five year
5 sentence would be extremely rare in that case and I know
6 personally I have pled teenagers with no record, shooting
7 at people and missing receiving probation in my personal
8 experience.

9 Q. You know, I'm going back to page eight and it looked
10 as though the client, your client had some concerns
11 admitting to whether or not he intended to kill Mr.
12 Droze. Did you ever consider standing down at that time?

13 A. You know, it crosses your mind because you're kind
14 of trying to figure out where the judge is going to go
15 with sentencing and I decided not to stand down.

16 I should have when first Mr. Bryan indicated with
17 finality during the plea on the record that he did not
18 intend to kill this person which is something he had told
19 me in our own meetings. And, then when he was clearly
20 mistaken in what we were going to get out of this plea.

21 Where I had basically, if you look at the transcript
22 he talks about getting five years, being promised five
23 years. That wasn't true, I did not promise him that he
24 was going to get five years, but I did tell him that
25 that's what we were going to go for. That's what we were

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1 going to ask for because that was the mandatory minimum
2 on that gun charge. And, you know, he was mistaken in
3 that I promised that that was what was going to happen.

4 But just the way the plea was going, the fact that
5 he was asserting his innocence as to an essential element
6 and that he was clearly unclear on how this plea could go
7 in terms of sentencing it, you know, I should have stood
8 down and we should have gone to trial.

9 And, you know, like I said before, the decision to
10 power through this plea even though it was not looking
11 great from the judge's comments regarding sentencing, all
12 of that was colored by my impression that best case
13 scenario at trial he was looking at twenty-five anyway.

14 Q. Because certainly the judge did hide the fact that
15 he was looking at a high range in his ---

16 A. --- right, yeah ---

17 Q. --- he referred to the victims as heroes ---

18 A. --- yes. And really was pretty aggressive in
19 dressing down my client I would say and indicated flat
20 out that he was not going to give him what we were
21 requesting which was the minimum, which isn't unusual,
22 you know.

23 You just hope that he's going to fall within the
24 range at that point and that was sort of the impression
25 that he had given me in chambers as well.

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1 Q. How many times did you speak with your client before
2 the plea?

3 A. If you'll refer to my notes, Mr. Bryan was arrested
4 on March 12 of 2014. I first met with him at the jail on
5 March 26th of 2014.

6 I met with him again on June 13th of 2014, August 15th
7 of 2014, December 18th of 2014, August 18th of 2015,
8 February 19th of 2015, April 23rd of 2015, and October 12th
9 of 2015.

10 Q. So you had, obviously, several conversations with
11 him?

12 A. Yes.

13 Q. Was he responsive in those conversations? Do you
14 remember questioning his, you know, understanding of what
15 was going -- that he had a full understanding of what was
16 going on? Was he very savvy?

17 A. Definitely not savvy. You know, I didn't have any
18 questions about his competence, but he was clearly naive
19 about the criminal justice system. This was his first
20 foray into anything like this.

21 He was spending well over a year in the adult jail
22 as a teenager and now I mean, he was -- he was not
23 getting the magnitude of what we were facing in deciding
24 to turn down pleas and go forward with the trial. I
25 would definitely say that that's fair.

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1 Q. Okay.
2 MR. FALK: No further questions, Your Honor.
3 THE COURT: Ms. Olive?
4 MS. OLIVE: Thank you, Your Honor.
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1 CROSS-EXAMINATION

2 BY MS. OLIVE:

3 Q. Mr. Cochran, did you file for discovery in this
4 case?

5 A. I did.

6 Q. Did you review that discovery yourself?

7 A. Yes.

8 Q. Did you review it with Mr. Bryan?

9 A. Yes.

10 Q. Did you discuss what the State's evidence was
11 against him?

12 A. Yes.

13 Q. Can you briefly explain or describe what that
14 evidence was, what the State was prepared to present at
15 trial?

16 A. The State was prepared to present the testimony of
17 the victim and one person who was with him and then
18 possibly one other witness who also worked at the
19 apartment complex.

20 I believe there were three people in all who, sort
21 of, witnessed what occurred. So he would be calling at
22 least those three witnesses as eye witnesses. Plus any
23 physical evidence of discharging firearm.

24 Q. Did you review those -- did those statements -- did
25 those victims provide statements?

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- 1 A. Yes.
- 2 Q. Did you review those statements?
- 3 A. Yes.
- 4 Q. What is your understanding of what they would have
5 testified to in trial?
- 6 A. The biggest hurdle for us was that the listed victim
7 in the case would testify that he was shot at -- that he
8 was shot at at least once, I believe, and then dove into
9 some kind of ditch or grassy area and that Mr. Bryan then
10 shifted his aim and shot again and missed.
- 11 So, that would have been our biggest hurdle was that
12 that transition where they would have been arguing that
13 he was trying to hit him with the gun.
- 14 Q. And the victim spoke at the guilty plea?
- 15 A. Yes. The victim and the other witness both spoke at
16 the guilty plea.
- 17 Q. And Mr. Droze, the victim, Mr. Droze was the victim
18 who was going to testify that he was shot at?
- 19 A. Right.
- 20 Q. And didn't he say following -- didn't he tell the
21 judge at the guilty plea that Mr. Bryan tried to kill
22 him?
- 23 A. Yeah. He certainly wouldn't have been able to
24 testify to that, but yeah.
- 25 Q. You said he wouldn't have been able to testify to

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1 that?

2 A. No. I mean, he could have testified to actions that
3 he perceived to be intended to end his life, but he
4 couldn't have testified to Mr. Bryan's state of mind.

5 Q. Well, okay. But he could have testified that he was
6 perceiving that Mr. Bryan was trying to kill him?

7 A. Yes.

8 Q. And again, the facts of this case were that there
9 was some altercation with Mr. Bryan and a friend of his
10 with his mother and grandmother in a different apartment?

11 A. In a different part of the apartment complex, yes.

12 Q. Different part of the apartment complex. The
13 victims heard this going on. They stated they tried to
14 intervene, but they went up to them and asked them to
15 leave.

16 And then as they were trying to take down the
17 license plate of the car Mr. Bryan's friend got out of
18 the car and started to assault Mr. Droze?

19 A. That's right, yes.

20 Q. And then Mr. Bryan got out of the car and started
21 firing at Mr. Droze?

22 A. Started firing the gun, yeah.

23 Q. Okay.

24 A. Yes; and according to Mr. Droze, firing at him.

25 Q. Okay. But Mr. Bryan admitted in the guilty plea

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1 that he was firing at him?

2 A. Yes.

3 Q. And during -- referring to transcript page nine,
4 lines one through seven the judge says: So you could
5 have killed him. Mr. Bryan said: Yes, sir. The judge
6 then says: You tried to kill heroes in our town, our town
7 needs heroes and you tried to kill them, is that correct?
8 Mr. Bryan said: Yes, sir.

9 So, he admitted that he tried to kill them?

10 A. Yes.

11 Q. Okay. Did you discuss with Mr. Bryan the elements
12 of attempted murder?

13 A. Yes.

14 Q. Do you recall whether you would have discussed with
15 him elements of ABHAN or assault and battery first?

16 A. Yes.

17 Q. And, again, ABHAN and assault and battery first are
18 both lesser included offenses of attempted murder?

19 A. Right.

20 Q. Are you aware of any defenses -- did you discuss
21 potential defenses with Mr. Bryan?

22 A. I did.

23 Q. Did you advise whether or not he had any defenses?

24 A. Yes. I mean, yes. We discussed his denial of an
25 intent to kill as a defense to attempted murder. And,

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1 you know, at that point that was when I discussed with
2 him that ABHAN would be the next step down from attempted
3 murder and that that was what he would be facing as a
4 potential conviction at trial.

5 Q. But even if you had gone to trial and requested
6 lesser included charges, the judge has to charge on what
7 evidence was presented at trial, right?

8 A. Right.

9 Q. And was Mr. Bryan intending to testify at trial?

10 A. I don't think we had specifically discussed that,
11 but I think he did intend to testify. I don't know how
12 we could have really presented our defenses without him
13 testifying since it only went to his state of mind.

14 Q. So you were aware of no other defenses that he had
15 available to him other than simply denying that he
16 intended to kill Mr. Bryan, I mean excuse me, kill Mr.
17 Droze?

18 A. Right, that's correct.

19 Q. And you advised him of that?

20 A. Yes.

21 Q. And you stated a prior offer had been made of 17
22 years?

23 A. Oh yeah, it was an offer of our recommendation. So,
24 we could have pled straight up to the attempted murder
25 and gun charge with a recommendation from the State for

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- 1 17. We would have obviously been asking for less though
2 --
- 3 THE COURT REPORTER: I'm sorry?
- 4 A. We would have obviously been asking for less though,
5 so it was an open plea.
- 6 Q. [Ms. Olive] And you communicated that offer to Mr.
7 Bryan?
- 8 A. Yes.
- 9 Q. And he rejected the offer?
- 10 A. Correct.
- 11 Q. Did you discuss with Mr. Bryan his Constitutional
12 Rights that he would be waving by pleading guilty?
- 13 A. Yes.
- 14 Q. Did you advise him based on the evidence that the
15 State was prepared to present at trial? Did you advise
16 him concerning the likelihood that a jury would find him
17 guilty of attempted murder based on that evidence?
- 18 A. Yes.
- 19 Q. What was your advice to him?
- 20 A. On the likelihood that a jury would convict him of
21 attempted murder, I thought that I probably would have
22 presented to him as sort of a tossup between his word
23 versus the word of the victims. I would have told him
24 that that kind of thing is hard to predict.
- 25 Q. So ultimately that was going to be a decision for

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1 the jury to make whether they believed Mr. Bryan or
2 whether they believed the victims.

3 A. Correct.

4 Q. And you advised him that he was facing 30 years on
5 attempted murder and five years on the weapons charge?

6 A. Yes.

7 Q. Can you say that you were prepared to go to trial?

8 A. I was.

9 Q. And Mr. Bryan also gave a confession in this case,
10 is that right?

11 A. He did. He gave a statement to the police, yeah.

12 Q. Did you have any intention of making -- asking for a
13 Jackson v Denno hearing?

14 A. No. I mean if we would have done one it would have
15 just been sort of matter of course. I don't remember
16 there being any issues regarding voluntariness of the
17 statement.

18 MS. OLIVE: I beg the court's indulgence, Your
19 Honor.

20 THE COURT: All right.

21 [Whereupon, Ms. Olive reviews documents]

22 Q. [Ms. Olive] You stated that you did not research
23 concerning sentencing of similarly situated defendants,
24 which would have been used for purposes of mitigation?

25 A. Right. Yes.

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1 Q. And you stated you never promised him a five year
2 sentence?
3 A. I did not, no.
4 Q. Did you advise him that as a result of a guilty plea
5 the judge could sentence him up to 35 years?
6 A. Yes.
7 Q. And your testimony today is that you believe you
8 should have withdrawn the guilty plea?
9 A. Yes.
10 Q. Is that correct?
11 A. Yes.
12 Q. Why did you not ask to withdraw the guilty plea?
13 A. I think, you know, I do think now that I should have
14 moved to withdraw the guilty plea because he had asserted
15 his innocence as to the intent to kill once again which
16 he did again do in a motion to reconsider in this case.
17 I should have moved to stand down. I should have moved
18 to withdraw the plea and go forward with trial.
19 The reason I went forward is because we were in the
20 plea, we understood the risks of going forward with the
21 plea and I felt that the potential risks of going to
22 trial outweighed the potential benefits of just
23 continuing on and trying to get the best sentence we
24 could. And like I said before on direct that that
25 decision was influenced almost entirely by my impression

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1 that the best we could hope for at trial was the
2 conviction of ABHAN.

3 Q. Thank you Mr. Cochran that's all I have.

4 THE COURT: Brief redirect?

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La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Charles Cochran-Redirect Examination by Mr. Falk
April 21, 2017

1 stand.

2 [Whereupon, Mr. Bryan comes forward]

3 [Whereupon, the witness is duly sworn by the Clerk
4 of Court]

5 CLERK OF COURT: Please have a seat and once you do
6 if you can state your first and last name and spell out
7 your last name please.

8 THE WITNESS: La'Quan Bryan. B-R-Y-A-N.
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La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Direct Examination by Mr. Falk
April 21, 2017

1 LA'QUAN BRYAN,
2 Having been first duly sworn,
3 Was examined and testified as follows:
4 DIRECT EXAMINATION
5 BY MR. FALK:
6 Q. Mr. Bryan, were you represented by Mr. Cochran in
7 this case?
8 A. Yes.
9 Q. What is your level of education? How high did you
10 go in high school?
11 A. Tenth.
12 Q. Do you have a G-E-D?
13 A. No, sir.
14 Q. Are you currently taking any medicine today?
15 A. Yes, sir.
16 Q. What are you taking?
17 A. Topamax.
18 Q. Topamax. How long have you been taking Topamax?
19 A. I was prescribed by Doctor Woods, my psych -- my
20 doctor who is Doctor Woods. She put me on the medicine
21 two weeks ago.
22 Q. Two weeks ago?
23 A. Yeah, I'm in the mental health program at maximum
24 security in Kirkland.
25 Q. That's why you're in Kirkland, for the mental health

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Direct Examination by Mr. Falk
April 21, 2017

1 program?

2 A. Uh Huh.

3 THE COURT REPORTER: Is that yes?

4 A. Yes.

5 THE COURT REPORTER: You just need to say yes or no
6 when -- to answer questions.

7 Q. [Mr. Falk] You've been on Topamax for two weeks?

8 A. Uh Huh.

9 Q. How does it make you feel?

10 A. Drowsy and hungry -- drowsy, hungry.

11 Q. Do you understand my questions that I'm asking you
12 now?

13 A. Yeah -- yes, sir.

14 Q. Okay. What type of -- Mr. Cochran testified that he
15 spoke with you numerous times about this case. Do you
16 agree with that?

17 A. Yes, he did.

18 Q. What type of conversations did you have with him as
19 far as the strength of the State's case against you?

20 A. Well, as I was sitting in the county jail, he came
21 several times. He was basically asking me how do I feel
22 about my case.

23 I told him I really don't know and I was accepted
24 into a program called the Strong program, but he said the
25 State didn't want me to attend the program.

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Direct Examination by Mr. Falk
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1 Q. You wanted to get into the South Carolina Strong?
2 A. Uh Huh.
3 THE COURT REPORTER: Is that yes?
4 A. Yes. Yes.
5 Q. [Mr. Falk] What did he tell you about your
6 sentencing, what kind of sentence you could get on these
7 charges?
8 A. He said that if I went to trial they would have
9 found me guilty and I could have get 30 years.
10 Q. Okay. Do you remember at the sentencing at your
11 plea hearing when the judge asked you about -- and the
12 judge asked you had you knowingly pointed a gun at Mr.
13 Droze and shot at him? Do you remember the judge asking
14 you a question like that?
15 A. Yes.
16 Q. And your response was not in his direction. Do you
17 remember -- you recall that?
18 A. Yes.
19 Q. Is that -- was that consistent with what the
20 statement that you had given earlier, that you didn't
21 shoot at the people?
22 A. No I didn't. No, sir I didn't intend to shoot at
23 Mr. Droze.
24 Q. So, now do you remember that another conference call
25 I got between you and Mr. Cochran about at this time -- I

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Direct Examination by Mr. Falk
April 21, 2017

1 mean, right after you said that then the court said: So
2 you didn't intend to kill him. You said: No sir. Then
3 the court said: All right, let's go to trial.

4 You kind of remember that part of the day?

5 A. Yes. On October 12, I did -- I was called to go to
6 court and we -- he did pick the trial. But then I
7 backed down because he said that if I go to trial I was
8 going to lose so I might as well go ahead and plead
9 guilty to my charge.

10 Q. Did he tell you about that you probably -- the best
11 case that they could probably get would be a conviction
12 on ABHAN high -- assault and battery of a high and
13 aggravated nature. Do you recall that?

14 A. Yes. He said if I went to trial that they was going
15 to drop the attempted murder to assault and battery and I
16 still could have get time about 20 years for the charge.

17 Q. And he told you that?

18 A. Yes, he did.

19 Q. And so your decision to plead was that kind of based
20 on what he told you there?

21 A. I was kind of confused because I didn't know what
22 was going on. This is my first time; you know what I'm
23 saying, in trouble with the law as an adult.

24 Q. Did you know Mr. Droze prior to this?

25 A. No, I didn't.

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Direct Examination by Mr. Falk
April 21, 2017

- 1 Q. Did you attempt to shoot at him?
- 2 A. No, I didn't.
- 3 Q. Did you attempt to kill him?
- 4 A. No, I didn't.
- 5 Q. Why did you plead guilty?
- 6 A. I was basically put in under the impression to plead
7 guilty because he said that if I went to trial that I was
8 going to lose.
- 9 Q. And he told ---
- 10 A. --- and he said my best bet was to plead guilty to
11 my charge.
- 12 Q. And he testified earlier that he told you that you
13 could get 20 years on assault and battery of a high and
14 aggravated nature. Do you recall him telling you that?
- 15 A. Yes, if I went to trial.
- 16 Q. Okay. So were you basing your decision to plead on
17 his recommendation?
- 18 A. Yes.
- 19 Q. If you knew that the most you could get at trial
20 would be 10 years and that it would be nonviolent and
21 that your sentence would be nonviolent, would you still
22 have pled guilty?
- 23 A. Yes, sir.
- 24 Q. No, I'm saying had you known that you could have
25 only gotten 10 years at trial, would you have still pled

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Direct Examination by Mr. Falk
April 21, 2017

1 guilty?

2 A. If I had knew I would have get 10 years at trial?

3 Q. Yeah.

4 A. I would have went to trial if I had knew that.

5 MR. FALK: No further questions.

6 THE COURT: Thank you. Cross-examination?

7 MS. OLIVE: Thank you, Your Honor.

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La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Cross-Examination by Ms. Olive
April 21, 2017

1 CROSS-EXAMINATION

2 BY MS. OLIVE:

3 Q. So your testimony that you would have gone to trial
4 if you were going to get 10 years, or if there was a
5 chance that you could get 10 years but you could have
6 also gotten 30 years?

7 A. If I knew that I was going to get 10 years, I
8 would've went to trial.

9 Q. But if that was only a possibility, you could have
10 instead received 30 years if the jury had convicted you
11 of attempted murder, right?

12 A. Yes.

13 Q. And you still would have gone to trial even if
14 taking that risk?

15 A. Yeah, I would have took -- token [sic] the risk of
16 going to trial.

17 Q. Are you here today because you want another trial --
18 because you want to go to trial on the attempted murder
19 charge?

20 A. Yes.

21 Q. Okay. Did you ever ask the judge to withdraw your
22 guilty plea?

23 A. Not that I recall. I don't remember.

24 Q. But you agreed with the facts that the Solicitor
25 provided to the judge at your guilty plea?

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Cross-Examination by Ms. Olive
April 21, 2017.

- 1 A. I don't remember that.
- 2 Q. Do you remember your guilty plea?
- 3 A. No.
- 4 Q. Do you remember the Solicitor providing facts to the
5 judge that basically you got out of your car with a gun,
6 and fired it at the victim?
- 7 A. Excuse me?
- 8 Q. Do you recall at your guilty plea the Solicitor
9 explaining to the judge the facts of your case, right?
- 10 A. Uh Huh.
- 11 Q. Okay. Do you remember what those facts were?
- 12 A. The Solicitor?
- 13 Q. Yes.
- 14 A. You said the Solicitor? Yeah, he was saying like
15 that I was trying to kill Mr. Droze, but I really wasn't.
- 16 Q. The factual basis that he provided to the judge was
17 that you all got out of your car ---
- 18 A. --- yes my co-defendant got out of the car first ---
- 19 Q. --- okay. And he assaulted Mr. Droze, the victim,
20 right?
- 21 A. Yes, because he got an assault and battery charge
22 and they charging me with attempted murder.
- 23 Q. Because you got out of your car with a gun ---
- 24 A. --- and fired shots ---
- 25 Q. --- and you fired shots at the victim.

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Cross-Examination by Ms. Olive
April 21, 2017

1 A. No, I didn't.

2 Q. In the victim's direction.

3 A. At the victim's direction, but I didn't intend to
4 hit him.

5 Q. Okay. But, do you recall that those are the facts
6 that the Solicitor provided to the judge at your plea?

7 A. Yes.

8 Q. Okay. And, the judge asked you: Is what the
9 prosecution said the truth. And you said: Yes sir.

10 A. Yes.

11 Q. And then after you spoke with your attorney for a
12 few minutes and then after that you said I shot at Mr.
13 Droze ---

14 A. --- yes ---

15 Q. --- right ---

16 A. --- yes.

17 Q. And the judge said that you tried to kill him and
18 you said yes, sir.

19 MR. FALK: Objection, Your Honor. That's not what
20 the question was. The record said you could have killed
21 him, not tried. There's a huge difference between those
22 two verbs.

23 MS. OLIVE: Okay. Your Honor, if I may I'm
24 referring to I'll just read the ---

25 THE COURT: --- page which page ---

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Cross-Examination by Ms. Olive
April 21, 2017

1 MS. OLIVE: --- it's page nine ---

2 THE COURT: --- still on nine, okay ---

3 MS. OLIVE: --- lines one through seven.

4 Q. [Ms. Olive] So the judge said: You could have
5 killed him. You said: Yes sir. Right?

6 A. Yes.

7 Q. And then the judge said: And then you would be here
8 looking at a life sentence. Mr. Droze and Mr. Edwards
9 were heroes. You tried to kill heroes in our town. Our
10 town needs heroes and you tried to kill them, is that
11 correct? And you said: Yes sir. Right?

12 A. I was confused. I don't know what was going on that
13 day.

14 Q. And right after that the judge said you understand
15 you are -- he said: Are you in fact guilty of these
16 charges. And you said: Yes sir. Do you recall that?

17 A. Yes.

18 Q. And the judge went over with you your Constitutional
19 Rights that you are waving by pleading guilty?

20 A. Yes.

21 Q. And you did waive those rights?

22 A. Yes, I did.

23 Q. And you denied that anyone -- you said no one had
24 promised you -- excuse me you said no one had threatened
25 you to plead guilty, no one had promised you anything to

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Cross-Examination by Ms. Olive
April 21, 2017

1 plead guilty, right?

2 A. Me and Mr. Cochran talked about me getting five
3 years and that's the whole reason why I plead guilty
4 because I thought I was going to get five years. So the
5 only reason why I pled guilty was because Mr. Cochran
6 told me to plead guilty.

7 Q. You said that you thought you were going to get five
8 years. But the judge clarified that for you and said:
9 You fully understand that I'm prepared right now to
10 sentence you to 35 years in jail if I want to. And you
11 said: Yes sir.

12 A. Yes.

13 Q. Then he asked you: If the only reason you were
14 pleading guilty to attempted murder and possession of a
15 weapon during the commission of a violent crime is that
16 you were -- is because you were guilty of that, is that
17 correct. And you said: Yes sir.

18 A. Yes.

19 Q. And your attorney did ask for that sentence range
20 for you, did he not?

21 A. What sentence range?

22 Q. The five to 10 years.

23 A. Yes, he did.

24 Q. But he never promised you any particular sentence,
25 did he?

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-La'Quan Bryan-Cross-Examination by Ms. Olive
April 21, 2017

1 A. No.

2 Q. Thank you. That's all the questions I have.

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La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Closing Argument by Mr. Falk
April 21, 2017

1 CLOSING ARGUMENT

2 BY MR. FALK:

3 Your Honor, I appreciate the fact that in many of
4 these PCR hearings that you preside over when somebody
5 pleads you sort of have a job to decide as to whether
6 this is buyer's remorse or whether they are bonafide
7 claims, but I think in this case the court can consider
8 that this is a 19 year old boy tenth grade education, no
9 G-E-D, he's in court.

10 He's been appointed a very competent counsel, Mr.
11 Cochran and who had done a very thorough job but at one
12 point really gave him some bad advice or just made a
13 mistake; gave him bad advice. We certainly understand
14 Mr. Cochran's weighing -- you can certainly see what he's
15 saying twenty-five year -- you can get 20 years if it's
16 ABHAN or, you know, if you go to trial you can get -- I
17 mean I certainly understand that.

18 But the whole point is that Mr. Cochran acknowledges
19 that what they were trying to prove if they were going to
20 get off the attempted murder it was going to be based on
21 the fact that they could convince the jury that he had no
22 intent, there was no malice. They couldn't get over the
23 malice element. But, Mr. Cochran has acknowledged that
24 where he made a mistake is that if the State failed to
25 prove malice and the jury was inclined to convict on a

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Closing Argument by Mr. Falk
April 21, 2017

1 lesser included, the lesser included offense that would
2 have been appropriate to these charges would have been
3 assault and battery first because ABHAN, the one that Mr.
4 Cochran had in his mind, had a 20 year sentence. Assault
5 and battery first has a 10 year sentence and it's not
6 violent. He tells you that he believes that he gave bad
7 advice. That was kind of the balancing that he gave him.
8 My client is probably not as savvy as some people
9 who have been through the criminal justice system. The
10 reason why they're appointed competent counsel is to help
11 them. The fact that, you know, as Judge Young finally
12 gets him to say you attempted to kill the person -- that
13 line on page 9, line 7 I'm not going to share that. That
14 is really my client's intent to say yes sir to that or if
15 he was just sort of going along with the whole process.
16 Where he was asked a question and gave an
17 affirmative response, did you knowingly point a gun at
18 Mr. Droze and shoot at him and he said no. And that was
19 their point all along is that no he did not intend to
20 shot Mr. Droze. So, I'm not persuaded by the fact that
21 finally Judge Young got him to sort of admit to and you
22 tried to kill them is that correct. I mean, it seems if
23 you look at his statements all through there the comment
24 is yeah I shot a gun at the direction, you know, I don't
25 know if he was trying to scare them off or whatever, but

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Closing Argument by Mr. Falk
April 21, 2017

1 he certainly didn't intend to kill them. But my point is
2 that's the crux of what this case is going to be about.
3 And I could see if you're going to trial and you know
4 that what you're looking at is 30 plus the five or 20
5 plus the five and, you know, that's one sort of calculus
6 that you go through, but that was the wrong math that he
7 was applying.

8 It was if they were able to prove to the court, and
9 of course we don't know what the jury is going to say,
10 but that's why we have trial. But if they were able to
11 prove that he had no intent to kill, this goes down to
12 assault and battery first with a much lower sentencing.
13 The maximum sentencing there is 10 and it's nonviolent.
14 So, I mean, the sentence was not an 85 percent crime at
15 that.

16 I think it's clear that my client was relying wholly
17 on the advice of his counsel and his counsel admitted
18 that he made a mistake. I think that this was not a well
19 informed, educated plea.

20 THE COURT: --- well lines one and two on that
21 same page, on page nine ---

22 MR. FALK: --- yes sir ---

23 THE COURT: --- your client ---

24 MR. FALK: --- but I ---

25 THE COURT: --- says I shot at him. The court

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Closing Argument by Mr. Falk
April 21, 2017

1 says: You could have killed him. He said: Yes.

2 MR. FALK: Well, again, you know, I shoot a gun in
3 a -- you know, I shoot a gun in here and I'm not sure
4 that I intended to kill him, but it's still we have to
5 have malice I intended to kill him. I shot, you know,
6 and I'm not sure what he means by that.

7 His first statement is I didn't know -- I didn't
8 shoot in his direction. And then there's this conference
9 and then, you know, they're going to go ahead and go
10 forward with the plea and so he -- so yeah I shot in the
11 general direction. I still don't think it's -- I don't
12 think that alone would have provided malice.

13 THE COURT: Okay.

14 MR. FALK: That's all.

15 THE COURT: Ms. Olive?
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La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Closing Argument by Ms. Olive
April 21, 2017

1 CLOSING STATEMENT

2 BY MS. OLIVE:

3 Thank you, Your Honor. May it please the court? In
4 where -- a post conviction relief allegation alleges
5 involuntary guilty plea that has to be framed as an
6 ineffective assistance of counsel claim, which means Mr.
7 Bryan is required to show deficiency as well as
8 prejudice.

9 First, the State would argue that there is
10 overwhelming guilt of attempted murder in this case. He
11 gave a confession; there were two victims that were
12 willing to testify. The victim was going to testify that
13 Mr. Bryan got out of the car and was shooting at him.
14 Regardless of whether Mr. Bryan had testified at trial
15 and having given a confession, it's the State's position
16 that the evidence was overwhelming against him of
17 attempted murder.

18 So, it's unlikely that if he would have been
19 convicted of a lesser included offense of assault and
20 battery first if he had gone to trial, if he had
21 requested that. But, regardless, he did plead guilty.
22 He waived his rights to a jury trial; he waived his
23 rights to remain silent. They were prepared to go to
24 trial that day. Your Honor, I would argue that this is
25 just a case where he got the high sentence and he's

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Closing Argument by Ms. Olive
April 21, 2017

1 unhappy with it. Had he gone to trial, it's more than
2 likely he would have been convicted of assault -- excuse
3 me attempted murder and he would have been faced with 35
4 years if the judge had sentenced him consecutively.

5 Additionally, it's our position there's no
6 deficiency that's been shown. Mr. Cochran advised him of
7 the elements of the charges against him, he reviewed the
8 State's evidence with him, met with him multiple times.
9 Reviewed the discovery himself, testified that the victim
10 was going to testify that Mr. Bryan was shooting at him.
11 That's enough to show malice. That's enough to show an
12 intent to kill that he gets out of the car, points the
13 weapon at him, and starts firing.

14 So it would be our position that counsel was not
15 deficient in advising him to plead guilty based on the
16 evidence against him of the likelihood that he would have
17 been convicted if he had gone to trial. Your Honor, that
18 would be our position. Thank you.

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La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Closing Argument Reply by Mr. Falk
April 21, 2017

1 CLOSING ARGUMENT REPLY

2 BY MR. FALK:

3 Counsel talked about what the trial strategy was,
4 that they were going to be trying to show that, again, on
5 a malice issue and then counsel said that his trial --
6 what his trial strategy was, you know, best we could do
7 is shoot for ABHAN and that was wrong.

8 The best they could have done under the facts would
9 have been assault and battery first. I mean, his whole
10 defense was predicated on a trial strategy that was based
11 on an inaccurate reading of the laws that were applied to
12 the facts in this case and he said it numerous times.

13 Yeah, there are a lot of things that could have
14 happened. He could have asked for the lesser included
15 offense Judge Young may not have given. There's a lot of
16 if's that we don't know but I think we certainly know
17 that my client based his decision to plead guilty on
18 inaccurate advice from his trial counsel and he was
19 clearly relying on his trial counsel.

20 THE COURT: What about it Ms. Olive? The applicant
21 says he would not have waived his right to a jury trial
22 had he been given correct information about possible
23 lesser included charge.

24 MS. OLIVE: Your Honor, I still believe that ABHAN
25 would have been a correct lesser included charge in this

La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Closing Argument Reply by Mr. Falk
April 21, 2017

1 case. The judge might have charged assault and battery
2 first as well. That's speculation and Your Honor, he
3 still has to show -- it's our position that his testimony
4 alone that if he would have proceeded to trial, but for
5 this advice is not all that he needs to show prejudice in
6 this case showing the substantial evidence against him
7 and the likelihood he would have been convicted if he had
8 gone to trial. And he testified that his attorney told
9 him he was likely to be convicted if he had gone to trial
10 and he could have faced 30 years.

11 MR. FALK: Your Honor, if I just may in response to
12 -- it was -- their position is they still could have
13 charged him on ABHAN, but I think the facts that were
14 developed here is that Mr. Droze was not injured. You
15 have to have an injury to have ABHAN. It's either got to
16 have a serious bodily injury or be injured by a means
17 that it could have been serious. We don't have that
18 here. It would be our -- although there might be a lot
19 of things that are up in the air about this case, this is
20 not ABHAN unless he gets hurt.

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La'Quan Bryan v State of S. C.
Post Conviction Relief Hearing-Ruling by the Court
April 21, 2017

1 RULING BY THE COURT

2 THE COURT: Mr. Falk I'm going to deny your
3 client's application for post conviction relief. I find
4 it speculates -- speculative as to whether or not the
5 judge had ever given the lesser included charge. I agree
6 with the position stated by the Attorney General. I know
7 that the defendant, excuse me, the applicant said that he
8 only pleaded guilty because he thought he was going to
9 get five years.

10 Now later on, of course, the court told him that
11 that was not right. But, I think it was wishful thinking
12 on the part of the applicant that he might get only five
13 years. I'm going to ask Ms. Olive if she would please
14 prepare an order to that effect.

15 MS. OLIVE: Thank you, Your Honor.

16 THE COURT: Court's adjourned.

17 *****END OF TRANSCRIPT OF RECORD*****

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La'Quan Bryan v State of S. C.
Certificate of the Court Reporter
April 21, 2017

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C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth Judicial Circuit of
the State of South Carolina, do hereby certify that the
foregoing is a true, accurate, and complete Transcript of
Record of the proceedings had and evidence introduced in
the trial of the captioned case, relative to appeal, in
the Court of Common Pleas for Charleston County, South
Carolina on the 21st day of April, 2017.

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

June 14, 2017



Joyce C. Rueger, CVR-M
Court Reporter

 COPY

cc
AG
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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
La'Quan Bryan, #365656,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2016-CP-10-2024

ORDER OF DISMISSAL

FILED
2017 AUG -3 PM 4:34
JULIE B. ...
CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief filed April 18, 2016, by La'Quan Bryan (Applicant) alleging plea counsel was ineffective for failing to properly advise him and involuntary guilty plea for the plea court's refusal to withdraw his plea. Respondent made its Return on July 28, 2016, requesting an evidentiary hearing be held. An evidentiary hearing into the matter was convened April 21, 2017, at the Charleston County Courthouse. Applicant was present at the hearing and represented by James K. Falk, Esquire. Assistant Attorney General Alicia Olive from the South Carolina Attorney General's Office appeared on behalf of the State. At the conclusion of the hearing, this Court denied the application from the bench. This order follows.

PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. During its October 2014 term of court, the Charleston County Grand Jury indicted Applicant for attempted murder (2014-GS-10-5988) and possession of a firearm during

the commission of a violent crime (2014-GS-10-5989). Charles Cochran, Esquire, represented Applicant. Assistant Solicitor Richard Waring prosecuted the case.

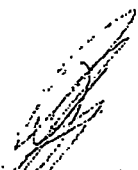
On October 13, 2015, Applicant appeared in the Charleston County Court of General Sessions before the Honorable W. Jeffrey Young, circuit court judge, and pled guilty as indicted without negotiations or recommendations. Judge Young sentenced Applicant to twenty years imprisonment for attempted murder and a consecutive five years imprisonment for possession of a firearm during the commission of a violent crime. Applicant did not appeal his guilty pleas or sentences.

FACTUAL HISTORY ADDUCED AT THE GUILTY PLEA

These charges arise from a shooting at the Dorchester Garden Apartments on the evening of March 11, 2014. At approximately 8:15 p.m., Victim and two co-workers were working to clear out an apartment and ready it for the next tenant. Applicant and his friends arrived, walked by Victim and his co-workers and soon after, began yelling loudly. Victim and his co-workers approached Applicant and his friends and asked them to leave. Applicant and his friends began leaving and Victim took down their license plate number. Applicant and his friends jump out of the vehicle. Applicant's friend began punching and assaulting victim, who began defending himself. Applicant then brandished a firearm and shot at Victim, who dove into a nearby ditch. Applicant fired a second shot and then attempted to fire a third shot, but the weapon was slapped out of his hand by Victim's co-worker. Applicant picked up the gun and pointed it at this co-worker, who similarly dove into a ditch. Applicant and his friends then fled the scene. Two witnesses positively identified Applicant and Applicant gave a full confession to law enforcement. (Plea Tr. p. 6-7).

At his plea proceeding, the plea court inquired as to whether Applicant agreed with these facts and Applicant stated he did. Applicant agreed he knowingly pointed a gun at Victim, shot him, and could have killed him. (Plea Tr. p. 7-9). Applicant stated he understood the plea was without negotiation or recommendation from the State and the court could sentence him to up to thirty-five years imprisonment. (Plea Tr. p. 9-10). Applicant also stated he was aware of his constitutional rights and wanted to waive them to enter his guilty plea. (Plea Tr. p. 10-11). Applicant stated he had not been threatened to induce his guilty plea. (Plea Tr. p. 11). He stated he had not been made any promises, including promises from counsel as to what sentence he would receive. (Plea Tr. p. 12). He stated he was satisfied with his attorney's services. (Plea Tr. p. 13-15). Applicant also stated he understood he had ten days to appeal his guilty plea. (Plea Tr. p. 16).

Counsel informed the plea court that Applicant had been detained for 575 days and Applicant wanted to plead guilty the entire time. (Plea Tr. p. 19). He elaborated Applicant has always accepted responsibility and gave a full confession to law enforcement when he was arrested. (Plea Tr. p. 22). He testified he attempted to negotiate a favorable plea deal on Applicant's behalf and the State was requesting a very significant sentence. (Plea Tr. p.19-20). He testified he spoke with Applicant and Applicant's family at length and advised them Applicant could potentially get the maximum sentence. (Plea Tr. p. 20-21). Counsel testified he also called and spoke with Victim to see what type of sentence he would be asking seeking. (Plea Tr. p. 23). Counsel requested the plea court sentence Applicant to the minimum. (Plea Tr. p. 25).



ALLEGATIONS RAISED

In his application, Applicant alleged he is being held in custody unlawfully based on allegations was ineffective for failing to properly advise him and involuntary guilty plea for the plea court's refusal to withdraw his plea.

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant presented plea counsel Charles Cochran (Counsel). Counsel testified he was appointed to represent Applicant, who was eighteen years old at the time of the shooting. (PCR Tr. p. 6). He testified he met with Applicant eight times prior to his guilty plea. (PCR Tr. p. 22). He testified these were Applicant's first General Session convictions, but he did have minor juvenile charges. (PCR Tr. p. 6). Counsel testified the incident giving rise to these charges started when Applicant got into an argument with family members and Victim and co-workers came over to intervene. (PCR Tr. p. 6-7). Counsel testified one of Applicant's friends physically assaulted Victim and Applicant fired multiple shots at Victim, but no one was hit by any of the bullets. (PCR Tr. p. 7-8). Counsel testified he filed for and received discovery in this case and he reviewed the discovery with Applicant. (PCR Tr. p. 24). He testified the evidence included statements from eyewitnesses. (PCR Tr. p.24). He testified Applicant confessed to law enforcement and he did not recall any potential problems with the voluntariness of Applicant's statement. (PCR Tr. p. 30).

He testified the biggest hurdle at trial would have been overcoming Victim's statement that Applicant shifted his direction between the second and third shots, which tended to establish he was aiming to shoot at Victim. (PCR Tr. p. 25). He testified Victim told the plea court he feared for his life and believed Applicant was trying to kill him. (PCR Tr. p. 25-26). Counsel

testified he spoke with Victim prior to and at the plea proceeding. (PCR Tr. p. 25). He testified he was prepared for Victim to testify at trial that he believed Applicant was attempting to kill him. (PCR Tr. p. 27-28). He testified if Applicant had proceeded to trial, the case would have ultimately hinged on whether the jury believed Victim or Applicant. (PCR Tr. p. 29-30). Counsel testified he reviewed all elements of the offenses with Applicant, including possible lesser-included offenses. (PCR Tr. p. 27). He testified Applicant admitted numerous times during the plea proceeding that he attempted to kill Victim. (PCR Tr. p. 27).

Counsel testified Applicant pled after the jury panel had been qualified but before a jury had been selected for trial. (PCR Tr. p. 8). Counsel testified Applicant had previously been prepared to go forward with a guilty plea, but the plea did not go forward when the State recommended a seventeen year sentence. (PCR Tr. p. 8).

Counsel testified he was prepared to go to trial. (PCR Tr. p. 9). He testified the trial strategy would have been that although Applicant did discharge the firearm, he did not have an intent to kill. (PCR Tr. p. 9, 13-14). He testified he advised Applicant about the possibility of being convicted of lesser-included offense of ABHAN at trial and the possible benefits and drawbacks of that approach. (PCR Tr. p. 9-10). He testified he believed the best case scenario at trial would be a twenty to twenty-five year sentence if Applicant was convicted of a lesser-included offense. (PCR Tr. p. 13). He testified he now believes Applicant could have been convicted of first-degree assault and battery, which carries a potential sentence of zero to ten years imprisonment, rather than ABHAN. (PCR Tr. p.14-17). Counsel testified he never advises a client to plead guilty or go to trial, but now knowing Applicant could have been convicted of first-degree assault and battery as a lesser-included offense would drastically change his advice

to Applicant. (PCR Tr. p. 16-18). He testified Applicant's sentence was rare for a teenager with no prior General Sessions record. (PCR Tr. p. 20).

Counsel testified he recalled the plea court asking Applicant to state what he did and acknowledge his guilt to the elements of the offense. (PCR Tr. p. 10-12). He testified this was not uncommon and he had advised Applicant of this. (PCR Tr. p. 12). He testified he never promised Applicant he would receive a five year sentence, but advised him he would ask the plea court to sentence him in that range. (PCR Tr. p. 20, 31). He testified when Applicant hesitated when asked by the plea court if he had intended to kill Victim, he should have stood down and proceeded to trial. (PCR Tr. p. 20-21).

Applicant testified next. He testified counsel was appointed to represent him and they met numerous times. (PCR Tr. p. 35-36). He testified he discussed potential sentences with counsel and counsel advised him he could receive up to thirty years imprisonment. (PCR Tr. p. 36-37).

Applicant testified he recalled the plea court asking him if he intended to shoot the Victim and he recalled telling the plea court he did not shoot in Victim's direction. (PCR Tr. p. 37). However, on cross-examination, Applicant testified he did not recall the plea proceeding. (PCR Tr. p. 42). He testified he considered standing down and proceeding to trial, but counsel advised him he would likely be convicted and likely receive a sentence of approximately twenty years. (PCR Tr. 37-38). He testified he did not intend to shoot the Victim, but he pled guilty because he did not want to be convicted at trial. (PCR Tr. p. 39). He later clarified he fired shots in Victim's direction, but did not intend to hit Victim. (PCR Tr. p. 42-43). He testified he admitted to the plea court he could have killed Victim. (PCR Tr. p. 44).

Applicant testified he would have proceeded to trial if he had been advised he could potentially receive a ten year sentence if convicted. (PCR Tr. p. 39-41). He testified counsel advised him he would receive a five year sentence and that counsel asked the plea court to sentence Applicant to five to ten years imprisonment. (PCR Tr. p. 45). He testified counsel never promised him a particular sentence. (PCR Tr. p. 45-46). He testified he never asked the plea court to withdraw his guilty plea. (PCR Tr. p. 41).

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 hearings. 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 (1985).

Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, he or she must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813. The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441,



334 S.E.2d 813. The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). Judicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable. Strickland, 466 U.S. at 689. "[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. 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, 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 (1985).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel's performance was deficient before examining the prejudice

suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668.

After careful review of the entire record, including the testimony presented at the evidentiary hearing, based on the standard discussed above, this Court finds Applicant has failed to carry his burden in this action in regards to his allegations of ineffective assistance of counsel. The Court finds plea counsel adequately conferred with Applicant (including meeting with him eight times), reviewed all pertinent discovery materials with Applicant (including statements of Applicant and various eyewitnesses), was prepared for trial when Applicant elected to forgo trial and enter a guilty plea, and fully advised Applicant of all aspects of his guilty plea. Ultimately, this Court finds plea counsel was thoroughly competent in his representation of Applicant and in his advice to Applicant that a guilty plea was in his best interest.

Applicant alleges plea counsel misadvised him to plead guilty because counsel erroneously advised him would likely receive a sentence in excess of twenty years if convicted at trial, including if he was convicted of a lesser-included offense. Applicant contends he likely would have been convicted of the lesser-included offense of first-degree assault and battery at trial, thereby reducing his potential sentence exposure to up to ten years imprisonment. However, this Court finds this argument is highly speculative and is wholly premised on the assumption that the trial court would have charged the jury with the lesser-included offense of first-degree assault and battery and that Applicant would have been convicted of this lesser-included offense rather than the greater offense for which Applicant was indicted—attempted murder. This Court rejects this argument, finding it unlikely that the trial court would have charged the jury on first-

degree assault and battery and finds Applicant would have likely been convicted of attempted murder if he had proceeded to trial.

“A trial judge is required to charge the jury on a lesser-included offense if there is evidence from which it could be inferred the lesser, rather than the greater, offense was committed.” State v. Green, 397 S.C. 268, 289, 724 S.E.2d 664, 674 (2012). “The mere contention that the jury might accept the State’s evidence in part and reject it in part is insufficient to satisfy the requirement that some evidence tends to show the defendant was guilty only of the lesser offense.” State v. Geiger, 370 S.C. 600, 608, 635 S.E.2d 669, 674 (Ct. App. 2006).

The Omnibus Crime Reduction and Sentencing Reform Act of 2010 substantially overhauled the state’s criminal law in regard to assault and battery offenses. It codifies attempted murder in section 16-3-29 and four degrees of assault and battery in section 16-3-600. S.C. Code Ann. §§ 16-3-29 & 16-3-600 (Supp. 2013). The new degrees of assault and battery are, in descending order of severity, assault and battery of a high and aggravated nature, and assault and battery in the first, second, and third degrees. Under the statute, assault and battery of a high and aggravated nature is a lesser-included offense of attempted murder. Id. § 16-3-600(B)(3). Assault and battery in the first degree is a lesser-included offense of both attempted murder and assault and battery of a high and aggravated nature. Id. § 16-3-600(C)(3).

In the present case, Applicant alleges the trial court would have charged the jury on the lesser-included offense of first-degree assault and battery and that he would have been entitled to this lesser-included offense because there was evidence establishing Applicant lacked intent to kill Victim.

S.C. Code Ann. § 16-3-29 provides: "A person who, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder." S.C. Code Ann. § 16-3-600(C)(1) provides: "A person commits the offense of assault and battery in the first degree if the person unlawfully: (a) injures another person, and the act: (i) involves nonconsensual touching of the private parts of a person, either under or above clothing, with lewd and lascivious intent; or (ii) occurred during the commission of a robbery, burglary, kidnapping, or theft; or (b) offers or attempts to injure another person with the present ability to do so, and the act: (i) is accomplished by means likely to produce death or great bodily injury; or (ii) occurred during the commission of a robbery, burglary, kidnapping, or theft." Assault and battery in the first degree is a lesser included offense of attempted murder. S.C. Code Ann. § 16-3-600(C)(3).

The record before this Court only supports a conclusion Applicant was trying to kill Victim. Applicant admitted he shot in Victim's direction at fairly close range numerous times. At trial, Victim and numerous eyewitnesses would have testified Applicant shot at Victim several times and repositioned his stance before the third shot to better aim at Victim. Based on this evidence, the trial court would have properly rejected any request to charge the jury with the lesser-included offense of first-degree assault and battery and the jury would likely find Applicant committed attempted murder. See State v. Mallory, 270 S.C. 519, 523, 242 S.E.2d 693, 695 (1978) ("[I]t is not error to refuse to submit the question of simple assault and battery to the jury under an indictment for assault and battery of a high and aggravated nature, unless there is testimony tending to show that the defendant is only guilty of a simple assault and battery." (emphasis added)); see also State v. Small, 307 S.C. 92, 94, 413 S.E.2d 870, 871 (Ct. App. 1992)



("The evidence does not warrant the charge of the lesser offense of simple assault. Small was guilty of assault and battery of a high and aggravated nature or not guilty. Accordingly, there is no merit to his claim that the court erred in refusing to give the requested charge."). As no evidence was presented supporting a finding the assault on Victim was anything other than attempted murder, the trial court would decline to instruct the jury on the lesser included offense of first-degree assault and battery.

Therefore, this Court finds counsel was not ineffective for advising Applicant to plead guilty rather than proceed to trial and risk a substantial likelihood of being convicted and receiving a higher sentence. This court finds this application must be denied and dismissed with prejudice.

CONCLUSION

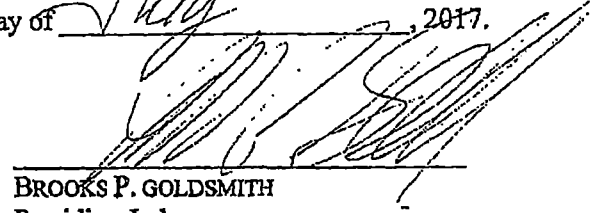
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record 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 post-conviction relief. Rule 71.1(g), SCRCP, provides if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief must be denied and dismissed with prejudice; and
2. Applicant La'Quan Bryan shall remain in the custody of the State.

AND IT IS SO ORDERED this 28 day of July, 2017.



BROOKS P. GOLDSMITH
Presiding Judge
Ninth Judicial Circuit

_____, South Carolina

TRW20140302932

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2014008026

ARREST WARRANT NUMBER

2014A1010201326

DATE OF ARREST

March 12, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury Date: *[Signature]* OCT 7 2014

VERDICT

Foreperson of Petit Jury Date:

INDICT

DOCKET NO. 2014GS1005988

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

LAQUAN DAMON BRYAN
DOB: [REDACTED]
B/M

Indictment for
Attempted Murder

FILED

10/21/2014 8:53:42 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

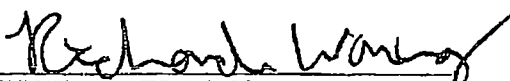
INDICTMENT

At a Court of General Sessions, convened on October 6, 2014 the Grand Jurors of Charleston County present upon their oath:

Attempted Murder

That in Charleston County, South Carolina, on or about March 11, 2014, the Defendant, LAQUAN DAMON BRYAN, did, with intent to kill and malice aforethought, attempt to kill Ronald Droze. This is in violation of Section 16-3-29 of the South Carolina Code of Laws (1976) as amended.

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


RICHARD WARING
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON
STATE VS.

LAQUAN DAMON BRYAN

AKA:
Race: Black/African American Sex: M
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: North Charleston, SC 29418-6730
DL#: [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS1005988
A/W: 2014A1010201326
Date of Offense: 03/11/2014
S.C. Code §: 16-03-0029
CDR Code #: 3410

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Attempted Murder
In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or Lewd Act)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Richard Waring 100465 Bryan 76963
T. Richard Waring, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 575 days

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED
 Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____

Recipient: _____ Substance Abuse Counseling
*Fine: _____ Random Drug/Alcohol Testing

§14-1-206 (Assessments 107.5%) \$ _____ Fine may be pd. in equal consecutive weekly/monthly
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00 pmts. of \$ _____ Beginning _____
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____ \$ _____ Paid to Public Defender Fund

§56-5-2995 (DUI Assessment) \$12 \$ _____ Other: _____
§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____
§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____
§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ \$ 3.90
TOTAL \$ 133.90

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

Clerk of Court/Deputy Clerk: [Signature]
Court Reporter: [Signature]

Presiding Judge: [Signature]
Judge Code: 1156
Sentence Date: 13 Oct 2015

TRW20140302932

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2014008026

ARREST WARRANT NUMBER

2014A1010201327

DATE OF ARREST

March 12, 2014

ACTION OF GRAND JURY

TRUE BILL
OCT 7 - 2014

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1005989

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

LAQUAN DAMON BRYAN

DOB: [REDACTED]

B/M

Indictment for

Possession Of A Firearm During The
Commission Of A Violent Crime

FILED

10/21/2014 8:53:42 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)


INDICTMENT

At a Court of General Sessions, convened on October 6, 2014 the Grand Jurors of Charleston County present upon their oath:

Possession Of A Firearm During The Commission Of A Violent Crime

That in Charleston County, South Carolina, on or about March 11, 2014, the Defendant, LAQUAN DAMON BRYAN, did possess a firearm or visibly display what appeared to be a firearm during the commission, or attempted commission, of Attempted Murder, a violent crime. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

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


RICHARD WARING
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON
STATE VS.

LAQUAN DAMON BRYAN

AKA:
Race: Black/African American Sex: M
DOB: [redacted] SS#: [redacted]
Address: [redacted]
City, State, Zip: North Charleston, SC 29418-6730
DL# [redacted] SID# [redacted]

INDICTMENT/CASE#: 2014GS1005989
A/W: 2014A1010201327
Date of Offense: 03/11/2014
S.C. Code §: 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Possession Of A Weapon During The Commission Of A Violent Crime
In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or Lewd Act)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Richard Waring 100465 L. Bryan [Signature] 76963
T. Richard Waring, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 14-5988
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 575 days
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

Recipient: _____	
*Fine: _____	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
Proviso 47.9 (Public Def/Prob)	\$500 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150 \$ _____
§50-21-114 (BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
Proviso 90.5 (SCCA Surcharge)	\$5 \$ <u>5.00</u>
3% to County (if paid in installments)	\$ <u>3.90</u>
TOTAL	\$ <u>133.90</u>

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund
Other: _____

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

Clerk of Court/Deputy Clerk: Colleen
Court Reporter: Sharm Viza

Presiding Judge: [Signature]
Judge Code: 2156
Sentence Date: 13 Oct 2015