

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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S.C. SUPREME COURT

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Certiorari to Charleston County

Honorable William H. Seals, Circuit Court Judge

\_\_\_\_\_  
SENIOR JENKINS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001821

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

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State of South Carolina ) In General Sessions Court  
 County of Charleston ) Ninth Judicial Circuit

State of South Carolina ) Transcript of Record  
 Vs. ) 2013-GS-10-1996  
 Senior Jenkins, )  
Defendant )

August 28, 2014

Charleston, South Carolina

B E F O R E:

The Honorable Donald B. Hocker, Presiding Judge

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

Kelley Young, Assistant Solicitor  
 Attorney For the State

Donna K. Taylor, Esquire  
 Attorney For the Defendant

SHARON L. VIZER

CIRCUIT COURT REPORTER

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\*\*NO EXHIBITS WERE INTRODUCED\*\*

1                                    Thursday, August 28, 2014

2                                    SENIOR JENKINS, after having been duly  
3 sworn, testified as follows:

4                    THE COURT: All right, Solicitor. You want to call  
5 the next case.

6                    MS. YOUNG: Yes. Thank you, Your Honor. May it  
7 please the Court. This is the State vs. Senior Jenkins.  
8 He is pleading to a lesser included of distribution  
9 cocaine base second offense, no recommendation.

10                   THE COURT: All right. Ms. Taylor, you represent  
11 Senior Jenkins?

12                   MS. TAYLOR: I do.

13                   THE COURT: Have you had an opportunity to explain  
14 this charge to him, his constitutional rights related to  
15 the charge, maximum punishment he could receive?

16                   MS. TAYLOR: I have.

17                   THE COURT: And do you believe he has understood  
18 your explanation?

19                   MS. TAYLOR: I believe that he does.

20                   THE COURT: Okay. And how does he wish to plead to  
21 distribution of cocaine base which is actually a reduced  
22 charge from a third to a second?

23                   MS. TAYLOR: Guilty.

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

25                   MS. TAYLOR: I do.

1 THE COURT: And do you believe that if he were to  
2 go to trial on the charge the strong likelihood would be  
3 he would be found guilty?

4 MS. TAYLOR: I do.

5 THE COURT: Mr. Jenkins, I'm going to ask you some  
6 questions. Pay very close attention to the questions  
7 that I ask you and when you respond speak up loud and  
8 clear so we can hear you. Okay?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. You are Senior Jenkins?

11 THE DEFENDANT: Yes, sir, I am.

12 THE COURT: How old are you?

13 THE DEFENDANT: I'll be 40, sir. I'm 39.

14 THE COURT: You're 39 now?

15 THE DEFENDANT: Yes, sir.

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

17 THE DEFENDANT: Three years of college and United  
18 States Navy, sir.

19 THE COURT: Okay. What kind of work do you do?

20 THE DEFENDANT: I'm an electrician, sir, by trade.

21 THE COURT: All right. I've been informed that you  
22 were originally indicted with distribution of cocaine  
23 base third but the State is allowing you to plead guilty  
24 to distribution of cocaine base second offense; is that  
25 correct?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Are you pleading guilty to this offense  
3 because in fact you are guilty?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Has anyone forced you, coerced you,  
6 promised you anything, done anything whatsoever to get  
7 you to plead guilty today against your will?

8 THE DEFENDANT: No, sir.

9 THE COURT: Are you pleading guilty today freely,  
10 voluntarily and intelligently?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Mr. Jenkins, within the last 24 hours  
13 have you consumed any substance, alcohol, drugs,  
14 medication that would affect your ability to understand  
15 these proceedings and make decisions in this case?

16 THE DEFENDANT: No, sir.

17 THE COURT: Do you suffer from any problem or  
18 condition, whether it's physical, mental or emotional  
19 that would affect your ability to understand these  
20 proceedings and make decisions in this case?

21 THE DEFENDANT: No, sir. Everything is fine.

22 THE COURT: Okay. All right. Solicitor, you want  
23 to tell me about it, please, ma'am.

24 MS. YOUNG: Yes. Thank you, Your Honor. May it  
25 please the Court. This occurred on December 1st, 2012.

1 The defendant met with a City of Charleston Police  
2 Department undercover officer in the area of Rutledge  
3 Avenue and Congress Street. The undercover officer  
4 exchanged a sum of prerecorded U. S. Currency for  
5 approximately .2 grams of a white rock-like substance  
6 that field tested presumptive for cocaine base. The  
7 entire transaction was recorded.

8 And, Your Honor, his prior record is a 1992  
9 possession of liquor by a minor; 2000 DUS; 2001 habitual  
10 traffic offender, possession of cocaine, criminal  
11 domestic violence of a high and aggravated nature; 2002  
12 entering premises after warning; 2004 criminal domestic  
13 violence; 2006 possession of a controlled substance; 2010  
14 trespassing, driving under suspension, two counts of  
15 distribution of cocaine base, and two counts of  
16 distribution of cocaine base within the proximity of a  
17 school. He received 10 years suspended to four years and  
18 two years probation on that charge, Your Honor. The  
19 State is not making a recommendation. It's seeking  
20 active time.

21 THE COURT: Okay. All right. Thank you very much.

22 Mr. Jenkins, concerning the facts behind this  
23 charge you are pleading guilty to is that a correct  
24 statement of the facts?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. Now, and I think you're already  
2 aware of that because it comes into play here but any  
3 time you get a drug conviction on your record and then  
4 you get another drug conviction later on in the future  
5 this drug conviction can enhance the penalty for that  
6 future drug conviction; do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Understanding that is it still your  
9 desire to plead guilty?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Sir?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Okay. You understand what the penalty  
14 range for this offense is?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. What is it?

17 THE DEFENDANT: It can carry up to five up to 30  
18 years.

19 THE COURT: Five to 30. Okay?

20 THE DEFENDANT: Yes.

21 THE COURT: Understanding that you still want to  
22 plead guilty?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay. Now, Mr. Jenkins, you understand  
25 that when you plead guilty you give up certain

1 constitutional rights; do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: I'll go through those with you. You  
4 have the constitutional right to a trial by jury. Do you  
5 know what a jury trial is?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you want to give up that right to a  
8 jury trial?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You have the right for your attorney to  
11 confront and cross-examine witnesses on your behalf,  
12 witnesses that the State has against you. Do you want to  
13 give up that right?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You have the constitutional right to  
16 have your attorney on your behalf put up legal defenses,  
17 legal challenges, any and all evidence or witnesses that  
18 the State may have against you. Do you want to give up  
19 that right?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You have the constitutional right to  
22 require the State to meet its burden of proof for proving  
23 each and every element of this charge beyond a reasonable  
24 doubt, and do you want to give up that right?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You have the constitutional right to  
2 remain silent. No one including myself can force you at  
3 any time to say anything whatsoever. Do you want to give  
4 up that right?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. Now, Ms. Taylor has been your  
7 attorney in this case?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Are you satisfied with her services?

10 THE DEFENDANT: Fine by me, sir. Yes, sir.

11 THE COURT: Okay. Has she done everything you've  
12 asked her to do or expected that she would do.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Have you had full and complete  
15 opportunity to review the discovery file in this case,  
16 the discovery file being all the evidence and documents  
17 that the State has provided to your attorney?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you need any more time to sit down  
20 and discuss this case with your attorney?

21 THE DEFENDANT: No, sir.

22 THE COURT: Sir?

23 THE DEFENDANT: No, sir.

24 THE COURT: Okay. Do you have any complaints  
25 against your attorney, any complaints against any of the

1 solicitors involved in this case, any complaints against  
2 any law enforcement personnel involved in this case?

3 THE DEFENDANT: No, sir.

4 THE COURT: Okay. Mr. Jenkins, you understand that  
5 if you have a legal bases to challenge this guilty plea  
6 that you are making this afternoon that you only have 10  
7 days to file a notice of intent to appeal with a higher  
8 court; do you understand that, sir?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Have you understood all of the Court's  
11 questions?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Have all your answers and responses  
14 been truthful and accurate?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. Thank you very much. Let the  
17 record reflect that there is a factual basis for the  
18 plea. The plea has been made freely, voluntarily and  
19 intelligently by Mr. Jenkins and he has done so with able  
20 assistance of counsel whose services he has expressed  
21 complete satisfaction with.

22 Ms. Taylor, I'll be glad to hear from you.

23 MS. TAYLOR: Thank you, Judge. As he indicated he  
24 graduated from Burke High School in the city in 1993. He  
25 spent three years at College of Charleston. I believe he

1 was pursuing music at that point. He entered the Navy in  
2 1994, was released from them two years later with anxiety  
3 posttraumatic stress diagnosis.

4 Starting in that year he began using cocaine and  
5 has used cocaine consistently since that time. I was  
6 able to get his V. A. records that indicate that he had  
7 -- at different times he has problems that appear to be  
8 bipolar. He's very depressive.

9 His first mental health involvement was at the age  
10 of 12 when he was committed into I. O. P., which is the  
11 Institute of Psychiatry, for a two week evaluation  
12 because of A. D. H. D., acting out, impulsivity and  
13 depression, sleep issues.

14 Following his release from the Navy he has been  
15 intermittently involved with the V. A. and most of the  
16 records indicate that the primary problem was his  
17 substance abuse which they related to self medication or  
18 the anxiety, the P. T. S. D. problems that he had been  
19 having, the impulsivity.

20 Obviously, his record is not a good one. A lot of  
21 those actions relate around all of that. He had not had  
22 as of -- he had two lawyers prior to me and he came to  
23 see me I think in spring and I told him that I would help  
24 him and took his case and asked him to go back to the  
25 V. A. and start again, just begin intermittently with

1 them. So he went back and I have a report from them in  
2 May that sort of reiterates everything that I just said.  
3 If you'd like to see I'll be happy to hand them up.

4 THE COURT: You can hand to me whatever you would  
5 like for me to consider.

6 MS. TAYLOR: I will hand you this one because it  
7 sort of capsulizes.

8 THE COURT: Thank you.

9 MS. TAYLOR: I'll let you look that over while I'm  
10 sort of going through highlighting. Coming up today he's  
11 on two medications. He takes Zoloft and Trazodone, I  
12 believe it is. Those are obviously for depression and  
13 sleep issues as well.

14 Okay if I talk to you while you read or do you want  
15 me to know wait?

16 THE COURT: Give me just a moment.

17 (PAUSE.)

18 THE COURT: Ms. Taylor, let me just ask one  
19 question about this report.

20 MS. TAYLOR: Certainly.

21 THE COURT: It states in the first paragraph he has  
22 a current charge for possession of crack cocaine and it  
23 reports that the judge has ordered him to seek treatment.  
24 What judge would that have been?

25 MS. TAYLOR: That would be his confusion, Judge,

1 they ordered him, unless he may have been referring to he  
2 had driving under suspension charges and that actually  
3 might be Judge Tom Morrison who was the municipal judge,  
4 and when we appeared in there he had gone through a  
5 substance unit. I'm sorry. I forget about that  
6 instance.

7 THE COURT: Okay. All right. I have reviewed this  
8 report. You may continue.

9 MS. TAYLOR: Okay. There have been some  
10 considerations that he may be boarder line schizophrenic  
11 or bipolar but what the V. A. tells me is that until his  
12 cocaine use is under control they can't really  
13 distinguish whether these symptoms are because of the use  
14 of cocaine for the last 20 some years, which affects the  
15 activities of the mind, or whether he does have an  
16 underlying bipolar designation.

17 What I had hoped to be able to do because despite  
18 his bad history and record he'd also been very erratic  
19 with employment and with his personal life.

20 He is married and this is his wife who is  
21 fortunately a stable individual. This is an aunt of his  
22 beside him. They recently -- it seems to be a trend with  
23 my clients. His mother died recently and left a home to  
24 him, which his sibilings are determined to try and help  
25 him. He's got a brother and sister here who have helped

1 him over time and kind of said, you know, Senior, you are  
2 not getting it together. We are done.

3 But when she passed away the house was empty. They  
4 didn't need it so they made a deal with him and said you  
5 and your wife take this home and as long as you stay  
6 straight we will let you live here, you'll have a place  
7 to be. He also has gotten employment with this company  
8 that he's been working with -- how long?

9 THE DEFENDANT: Almost three years.

10 MS. TAYLOR: Permanently more recently than that  
11 but has worked sporadically part-time and now he's got an  
12 actual full-time job with them. I had hoped to get him  
13 into the mental health court and unfortunately Ms. Young  
14 does not agree with me that that would be an appropriate  
15 placement so he can't do that.

16 He would otherwise qualify for V. A. Treatment, and  
17 I spoke with them. They have an in-house residential  
18 drug treatment program where they actually live in one of  
19 their facilities until you go through intensive treatment  
20 and then you have follow up. He is eligible for that.

21 The woman who handles that, Meredith Miller, says  
22 that he would be a prime candidate for that. He would  
23 obviously have to agree to live in the house, it's eight  
24 to 10 weeks, I think, is the initial part, and then after  
25 that you can follow up. So that's basically where we

1 are.

2 I know that he wants to talk to you, Your Honor,  
3 and I think that his wife would like to speak with you  
4 about where he is but essentially that's where we are.  
5 As far as the criminal offense, yes, he has done many bad  
6 things in his life, fortunately nothing terribly  
7 horrendous.

8 This particular transaction was a .2 grams of -- I  
9 can't remember now if it was crack or cocaine, but that  
10 was purchased from him by an undercover officer that he  
11 thought was somebody that he knew that rode up on a  
12 bicycle and said, Hey, can you give me some, and he did.  
13 It was a very minor transaction. No -- fortunately no  
14 weapons, no violence involved in these drug things. The  
15 possession offenses that are being dismissed pursuant to  
16 this were simply that, minor amounts of --

17 THE COURT: Let me just ask you one question,  
18 Ms. Taylor. Concerning these mental health issues,  
19 potential mental health issues, has that ever created any  
20 concern in your mind as his attorney concerning  
21 competency or anything like that or did it ever rise to  
22 the level that you felt like possibly an evaluation was  
23 necessary?

24 MS. TAYLOR: It has not, Your Honor, and I did have  
25 him evaluated at the V. A. but there's never been an

1 issue about competency.

2 THE COURT: Okay.

3 MS. TAYLOR: And when we talk with him he will  
4 sometimes -- especially when he gets upset because he has  
5 the anxiety issues, he will get very impulsive when he  
6 talks but he's very smart and he understands everything.  
7 I have no doubt in my mind that he is competent.

8 THE COURT: Okay. All right. Thank you very much,  
9 and you want me to hear from the wife?

10 MS. TAYLOR: I would like you to hear from his  
11 wife.

12 THE COURT: Okay. Ma'am, you'll need to be sworn  
13 in.

14 Madam clerk.

15 ALICIA N. MANGUM-JENKINS, after having been  
16 duly sworn, testified as follows:

17 THE CLERK: Please state your full name for the  
18 record, spelling your last.

19 THE DEFENDANT'S WIFE: Alicia Nicole  
20 Mangum-Jenkins. M-a-n-g-u-m-J-e-n-k-i-n-s.

21 THE COURT: Okay. Ms. Jenkins, what would you like  
22 to tell me, ma'am?

23 THE DEFENDANT'S WIFE: Basically, up until now we  
24 were on the fast track with getting him some help. When  
25 his mom was living -- she passed away. She caught a

1 stroke in 2012 -- 2011, passed away in 2012, but before  
2 then we had a lot of time to talk and catch up on his  
3 childhood, and I noticed some things that were getting  
4 worse with his behavior and that's when she shared with  
5 me that since childhood he was diagnosed with A. D. H. D.  
6 and bipolar disorder, which he kind of held back and  
7 didn't really go into too much detail with.

8           During that time she told me this information he  
9 was doing two years in prison, which I noticed his  
10 behavior had gotten worse like his -- you know, he would  
11 get frustrated and, you know, he couldn't think clearly  
12 or things would frustrate him and he would get very  
13 upset and he would go on rants and yell and argue which I  
14 knew there was something mentally wrong and his mom  
15 fessed to it.

16           So I said to her, Well, during his childhood why  
17 didn't you all continue getting him the help he needs? I  
18 think honestly nobody just cared enough, even his own  
19 momma. She did -- and his aunt can vouch for that.  
20 She's been around for life.

21           When he did go to I. O. P. at first and a doctor  
22 diagnosed him and put him on medication I believe the  
23 first medication might have been Ritalin during  
24 childhood, which is now not on the market.

25           The family would say the Ritalin made him worse,

1 okay, and that's what I would hear from there. Then it  
2 stopped, medication, no help, nothing until his teenage  
3 years. The behavior, getting put out of school -- he's  
4 very intelligent, but the behavior, getting put out of  
5 school and going from school to school they noticed there  
6 was a problem and he had to get more help. So that's  
7 when his mom tried again and put him back in I. O. P. and  
8 I think she did -- did she get him on the right track  
9 with medication?

10 FEMALE SPEAKER: No, she didn't.

11 THE DEFENDANT'S WIFE: Yeah. So it was just a  
12 failure all his life. Then he was just thrown to the  
13 wayside. And even as an adult he said after the Navy it  
14 had gotten worse. The P. T. S. D. set in, the anxiety.

15 Sometimes I would sit next to him and he'll just be  
16 shaking like crazy and I'm like, What is going on, and  
17 it's as a nerve condition, A. D. H. D. He's both  
18 bipolar, schizophrenic. He doesn't sleep at night. He  
19 may sleep for a total of three hours a night and he can  
20 just jump right up and go to work but then he crashes at  
21 a certain time of the day where he can't function.

22 You know, he can't control those nerves and he  
23 can't control things he says out of his mouth. You know,  
24 sometimes before bed you can tell he's fighting his sleep  
25 and he will go on rants for hours and I know there's a

1 problem and I just couldn't get the help until I found  
2 out about the V. A. And -- I'm sorry. (Crying). And I  
3 pushed him for the past couple years to go to the V. A.  
4 and to get the help and get back on the medication, and  
5 I've really been fighting this by myself because the  
6 family just doesn't care enough.

7 He's the only child between his mom and dad and  
8 they had him in their 40s, but they had other children  
9 before him on both sides and I would hear horror stories  
10 like his mom wouldn't feed him when he was a child and  
11 then -- I'm so sorry. (Crying).

12 THE DEFENDANT: Everything she's saying, Your  
13 Honor, is true.

14 THE COURT: That's all right. Take your time.

15 THE DEFENDANT'S WIFE: I just always wanted him to  
16 get the proper treatment that nobody cared to give him  
17 and I knew when he was in prison last time it was killing  
18 him because he wasn't getting the help and now I feel he  
19 really wants the help because he's dying inside.

20 He lost his mom while he was in prison but even  
21 before she left from here I could see the changes in him  
22 day-to-day while he was in prison and it did nothing but  
23 make him worse. And every day is a struggle, you know.  
24 I don't know from one day to the next what his attitude  
25 or demeanor is going to be like.

1           He's very intelligent, very intelligent, and he can  
2 do anything that he wants to do. It's just his mental  
3 capability is limiting him, is limiting him. And when we  
4 went to mental health a couple days ago on Charlie Hall  
5 Boulevard and the lady told us he was a candidate and we  
6 would accept -- we would love to accept him into the  
7 program. I said, Well, this is exactly what he needs.

8           You know, we have been to the V. A. numerous times  
9 and sometimes they have failed us where they say, Oh,  
10 everybody comes in here and says they are crazy, and they  
11 made a joke about it. Until recently I had to complain  
12 to get him an appointment with the psychiatrist and  
13 that's when they really realized, you know, there is a  
14 problem here. Okay, now we want to help.

15           But I said, When are you going to wait, until it's  
16 too late and he goes out here in society and doesn't  
17 think with good judgment and does something stupid and  
18 throws his whole life away? I don't want to see him do  
19 that.

20           As long as he's on medication and he's going  
21 through counseling, seeing a psychiatrist I believe he  
22 can get on the right track, but I can't do it alone. I  
23 can't do it alone. And he has to want to do it for  
24 himself, which I think he gets it now because he knows  
25 I'm done if he doesn't.

1           THE COURT: Thank you, ma'am. I'm sorry you had to  
2 deal with those problems that he has caused you.

3           Mr. Jenkins, is there anything you'd like to tell  
4 me?

5           THE DEFENDANT: I failed her. I came back home and  
6 I failed her. What can I say, Your Honor. In 1995 a  
7 horn blowing ship for man overboard. I can still see  
8 that to this day. Everybody think I'm in the hood. None  
9 of you all don't know. Everybody think I'm in the hood  
10 hustling, I'm smoking. I put up a front.

11           When that man fell overboard it was a 19-year-old  
12 Marine. If anybody in the military know, and there are  
13 Veterans in here, most of you older gentlemen know  
14 whenever a body falls overboard and it sits out in the  
15 ocean, the sea salt for a while it turns green,  
16 especially if they are Caucasian male. But at night,  
17 Your Honor, the dreams, the faces change. First went to  
18 my father, I got high. Then to my mother, got high.

19           I did not find out that I was eligible for benefits  
20 from the V. A. all of these years because I was so  
21 dependant of always taking advice of older people but it  
22 was always the wrong advice. That's why I made the  
23 decisions that I made, getting high, getting a piece here  
24 and there, a hit here and there, something here or there  
25 or a blunt here or there.

1           But to get to the point and make it quick for you,  
2 Your Honor, finally, I got the help. I got Zoloft and  
3 the Zoloft has been helping me. I've been more steady at  
4 work. I can give you a phone number for my boss. He can  
5 vouch for that. Trazodone does help me sleep at night.  
6 And everybody is giving me an opportunity.

7           Your Honor, I can sit up here and lie to you, tell  
8 you, Oh, yeah, Your Honor, like most young people come in  
9 here and try to feed you the hogwash. I can't do that,  
10 Your Honor. When your gavel slam it doesn't really  
11 matter. I can't sit up here and lie to you.

12           But one thing I can tell you, Your Honor. Counsel  
13 Taylor did inform me that it's possibility of with the  
14 sentence of a suspension, that if it's possible at the  
15 final decision of your discretion.

16           Your Honor, this is my last go around and the thing  
17 about it is she told me how hard it is and she told me  
18 the statutes of it when it comes to the drug court,  
19 mental health court and stuff like that. Like they say,  
20 like I heard you tell a young man earlier, Your Honor,  
21 the rest is on you.

22           Your Honor, I'm the last of 19. If you slam that  
23 gavel right now I caused it. I take the blame for my  
24 actions but at the same token I have failed and there are  
25 people in the grave because I should have knew better

1 but, Your Honor, I'm trying. And all I can ask is to  
2 have the Court to have mercy upon me.

3 I'm 40 years old. Why I haven't learned yet but  
4 I'm asking for God's sake if it's possible, Your Honor,  
5 if I could just have one opportunity. I won't show back  
6 up in your courtroom because of the simple fact of being  
7 I heard the statutes.

8 Like I said, whatever the sentence is imposed with  
9 a suspended sentence if I don't meet the criteria then  
10 nobody else failed me. I failed me. All I ask, Your  
11 Honor, Judge, is just give me one chance, but if I come  
12 back again and then the rest is on me. I can't blame  
13 nobody else but myself. I can't blame P. T. S. D. I  
14 can't blame crack. I can't blame you. I can't blame  
15 nobody else but me.

16 My parents did, my mother thought -- they really  
17 didn't want me in the house. Oh, he's just a drug  
18 dealer. He can't work. He just a drug dealer. You  
19 understand? But luckily the other family member that was  
20 the eldest gave the household and said, You know what?  
21 I'm going to give you this opportunity because me and her  
22 didn't get into the house until about, what, 2013? Right  
23 after I caught the charges is when we got in the house.  
24 That's when the paperwork got signed over to the house on  
25 Johns Island. Four bedrooms, two bathrooms, living room,

1 dining room, den, beautiful fish pond, but guess who  
2 flushing it down the toilet? Me. This and this.

3 Yes, Your Honor, I'm guilty. I am guilty of all my  
4 deeds but, Your Honor, I'm making an effort to try to  
5 turn it around because I see how much is at stake, over a  
6 hundred years that I'm throwing away.

7 Yes, Your Honor, I regret my actions but I can  
8 assure you, sir, in closing if given the opportunity and  
9 if the sentence could be suspended, Your Honor, and I  
10 could be entering into that program I'm done, I'm not  
11 coming back. And that's by God and I put my right hand  
12 up here. Thank you, sir.

13 THE COURT: All right. Thank you very much,  
14 Mr. Jenkins. Let's take about a 10-minute recess before  
15 we conclude this proceeding.

16 (WHEREUPON, a brief recess was taken.)

17 THE COURT: Okay. We're back on the record in the  
18 Senior Jenkins matter. Let me just make a couple little  
19 quick comments and observations, and I mentioned this  
20 yesterday, that the Court has to struggle on a regular  
21 basis of where the Court puts its priority insofar as a  
22 particular defendant, one who has a drug problem, and if  
23 we always put our priority in providing help for a person  
24 then no one would ever get punished because the vast  
25 majority of people who appear in general sessions court

1 have drug problems, sad to say.

2 So there are times, many times, that the Court has  
3 to put the priority on punishment versus providing help,  
4 which you are wanting me to do, and certainly your  
5 attorney has done an excellent job. I know she's doing  
6 what she's supposed to do, and certainly if I were in  
7 your place I would have done the same thing as you but  
8 what you all are wanting me to do is put the priority on  
9 the help and not on the punishment factor.

10 Well, I could do it if your situation were  
11 different but I'm looking at in 2010, I'm looking at a  
12 sentence that a circuit court judge gave you, two counts  
13 of distribution, one proximity charge, 10 suspended to  
14 four with two years probation. I can't overlook that.

15 Also, the fact that the State gave you a benefit of  
16 allowing you to plead to a distribution second to avoid  
17 the mandatory unsuspendable 10 years on a third, so you  
18 got some benefit there. So I can't overlook that either.

19 Now, am I completely blind to your particular  
20 situation? No. Not at all. You've got a very  
21 supporting wife who was very heartfelt in her comments of  
22 what you've put her through. I'm certainly, you know,  
23 giving that consideration. But at the end of the day  
24 I've got to put punishment as the primary priority here.

25 Probably if you were not in the State that you were

1 in insofar as the drug issues, mental health issues this  
2 sentence would be a lot worse. So that has been some  
3 mitigating influence on my decision.

4 Mr. Jenkins, the sentence of the Court is you be  
5 committed to the State Department of Corrections for a  
6 period of seven years, give you credit for 42 days that  
7 you have served. Good luck to you, sir.

8 MS. YOUNG: Thank you, Your Honor.

9 (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 28th day of August 2014.

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

August 12, 2015

*S/Sharon L. Vizer*

SHARON L. VIZER

CIRCUIT COURT REPORTER

FORM 5

2015-CP-10-2152

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

County of Charleston )

Senior Jenkins #341212 )

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

v. )

State of South Carolina )

APPLICATION FOR

POST-CONVICTION RELIEF

FILED  
2015 APR 13 PM 3:50  
JULIE J. ARMSTRONG  
CLERK OF COURT

**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 EVANS CORR Inst
2. Name and location of Court which imposed sentence Charleston Gen Session
3. Name(s) of co-defendant(s) (if any) \_\_\_\_\_
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2013GS1001996 - P.W.D - 44-53-375(B) 2

- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) 8-8-14 - sentenced to 7 YRS
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_

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

8. If you answered "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) I WAS NOT AWARE OF THE OPTION.

- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) PWID, second offense, is not a lesser included offense of PWID, first offense.
- (b) Violation of Notice requirement guaranteed by US & SC Const. & Statutes.
- (c) Breach of the Plea agreement.

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

- (a) S.C. Code Ann. 44-53-375(B)(2) is not a lesser included of 375(B)(1)
- (b) There is no indictment alleging a violation of S.C. Code - 44-53-375(B)(2)
- (c) The offense in which Applicant pled guilty, is not a lesser included offense.

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? \_\_\_\_\_

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) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) your arraignment and plea? \_\_\_\_\_
- (b) your trial, if any? \_\_\_\_\_
- (c) your sentencing? \_\_\_\_\_
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? \_\_\_\_\_
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? \_\_\_\_\_

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

- (a) the name and address of each attorney who represented you:
  - i. Donna Taylor, Broad St, Ste, Charleston, SC 29401
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. Guilty Plea hearing
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

Vacate Plea Agreement due to Jurisdictional defect.  
OR as alternative resentence to correct charge -  
(Possession) time served.

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

No

Revised 3/2003

STATE OF SOUTH CAROLINA )  
 )  
County of Charleston )

VERIFICATION

I, Senior Jenkins I/M #341212, 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.

[Signature] I/M # 341212

SWORN to and subscribed before me this 10th day of April, 2015.

[Signature] (L.S.)  
Notary Public

My Commission Expires: 2/24

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

I, Senior Jenkins /M#341212, 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.

 #341212  
Applicant

SWORN or affirmed to and subscribed before me this  
16th day of April, 2015.

  
Notary Public

My Commission Expires: 2/2016

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Senior Jenkins, #341212,

2015-CP-10-1855

Applicant,

v.

**RETURN**

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for Post-Conviction Relief (PCR) filed April 13, 2015, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the April 2013 term of the Charleston County Grand Jury for Distribution of Cocaine Base (2013-GS-10-1996). Donna Taylor, Esquire, represented the Applicant. On August 28, 2014, the Applicant pled guilty to the lesser included offense of Distribution of Cocaine Base, 2<sup>nd</sup> offense. The Honorable Donald B. Hocker sentenced the Applicant to confinement for seven (7) years. The Applicant did not appeal his sentence or plea.

Attached herewith and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject conviction(s), the application, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

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

1. "PWID, 2<sup>nd</sup> offense is not a lesser included offense of PWID, first offense"
  - a. "SC Code Ann. 44-53-375 (b)(2) is not lesser included offense of 375(B)(1)"
2. "Violation of Notice requirement guaranteed by U.S & S.C. Const. & statutes"
  - a. "There is no indictment alleging a violation of S.C. Code 44/53/375(b)(2)"
3. "Breach of the plea agreement"
  - a. "The offense in which Applicant pled guilty is not a lesser included offense"

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at evidentiary hearing. All amendments should be made well in advance of hearing and should be filed as required by Rule 11, SCRCP(a).

## III.

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable

professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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

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

#### IV.

The Respondent interprets the Applicant's other claims as infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an

application for post-conviction relief, it is incumbent upon the Applicant to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a *prima facie* showing, the Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

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.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
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

**November 24**, 2015.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 SENIOR JENKINS, #341212 )  
 )  
 )  
 Applicant, )  
 )  
 vs )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 Respondent. )

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IN THE COURT OF COMMON PLEAS


2015-CP-10-1855

AFFIDAVIT OF SERVICE BY MAIL

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

**James K. Falk, Esq.**  
**Falk Law Firm, LLC**  
**PO Box 1058**  
**Charleston, SC 29402**

DATED this 24<sup>th</sup> day of November, 2015. .

  
 Elizabeth McElellan, Legal Assistant  
 For Respondent

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STATE OF SOUTH CAROLINA	)	
COUNTY OF CHARLESTON	)	Court of Common Pleas
<hr/>		Case No. 2015-CP-10-2152
SENIOR JENKINS,	)	
Applicant,	)	
vs.	)	Transcript of Record
STATE OF SOUTH CAROLINA,	)	
Respondent.	)	DATE: January 9, 2017
<hr/>		

B E F O R E:

THE HONORABLE WILLIAM SEALS

A P P E A R A N C E:

JAMES FALK  
Attorney for the Applicant

ALICIA OLIVE  
Attorney for the Respondent

Karen V. Andersen, RMR, CRR  
Circuit Court Reporter

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INDEX

**EXAMINATION**

<b>Witness Name</b>	<b>Page</b>
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Direct By Mr. Falk.....	6
Cross By Ms. Olive.....	14
<b>DONNA TAYLOR</b>	
Direct By Mr. Falk.....	21
Cross By Ms. Olive.....	24

**EXHIBITS**

<b>Exhibit</b>	<b>Description</b>	<b>Identification Evidence</b>
P-1	Sentencing sheets	7

1 MS. OLIVE: May it please the Court, Your Honor.  
2 This is Senior Jenkins, 2015-CP-10-1855. Your Honor,  
3 Mr. Jenkins was indicted April 2013 term of the Grand Jury  
4 for distribution of cocaine, third offense. He was  
5 represented by Donna Taylor on that charge.

6 On August 28th, 2014, he pleaded guilty to the  
7 lesser-included offense of distribution of cocaine, second  
8 offense. That was before the Honorable Donald Hocker. Judge  
9 Hocker sentenced him to seven years of confinement. He did  
10 not appeal his sentence or plea.

11 He filed this application for post-conviction relief  
12 on April 13th, 2015, alleging several grounds of -- for  
13 post-conviction relief. Your Honor, I would note this  
14 application doesn't actually include an allegation of  
15 ineffective assistance of counsel. I don't know if Mr. Falk  
16 wishes to allege those grounds of ineffective assistance of  
17 counsel, but we would move to dismiss them as independent  
18 claims of post-conviction relief because they are not proper  
19 claims for post-conviction relief. They are direct appeal  
20 issues.

21 Your Honor, Mr. Jenkins is present in the courtroom  
22 today and represented by Mr. Falk. I will turn it over to  
23 him at this time.

24 THE COURT: Mr. Falk.

25 MR. FALK: I think my client -- granted, we could

1 have maybe done a better job filing an amended PCR. My  
2 client is claiming ineffective assistance of counsel for  
3 trial counsel to not have brought to the court's attention  
4 the problem with the underlying indictment in this case in  
5 that the indictment does not allege that it was a second or  
6 third offense.

7 And our argument would be -- one of our arguments  
8 would be that possession third -- excuse me, possession  
9 second is not a lesser-included offense of possession third.

10 But our probably stronger argument that we have is  
11 that the prior convictions that he had, whether or not that  
12 should have been treated as one offense or two offenses, my  
13 client was never made aware that there was a possibility that  
14 should have only been treated as one offense.

15 If you look at the plea colloquy, in 2010, he plead  
16 guilty to two counts of distribution, two counts of  
17 proximity. And it would appear that there was the assumption  
18 that that would be treated as offense number one, offense  
19 number two. And he stood before the court that day on  
20 offense number three. My client, I don't think, was ever  
21 apprised of the fact that that -- first of all, he doesn't  
22 know the indictment that he received -- really doesn't know  
23 what he's going forward on, whether it's first, second or  
24 third. And he feels that trial counsel didn't give him  
25 adequate advice on that.



## 1 DIRECT EXAMINATION

2 BY MR. FALK:

3 Q. Who were you represented by in this case?

4 A. Donna Taylor.

5 Q. Did she represent you on the original, on your  
6 charges in 2010?

7 A. No, sir.

8 Q. Who represented you on that?

9 A. Cassandra Winslow.

10 Q. Was that a public defender?

11 A. Yes, sir, she was.

12 Q. And in 2010, could you tell us, did you plead  
13 guilty?

14 A. Yes, sir, I did.

15 Q. And were you -- Your Honor, I don't know if you want  
16 me to lay a foundation for this. I just would offer his  
17 sentencing sheets and all certified copies. If I may  
18 approach for a moment.

19 THE COURT: Sure.

20 BY MR. FALK:

21 Q. Does that appear to be your signature?

22 A. Yes, sir, it was.

23 Q. Okay. Your Honor, at this time -- I will give these  
24 to -- Your Honor, at this time, we would move to enter these  
25 as Applicant's Exhibit No. 1.

1 THE COURT: Any objection?

2 MS. OLIVE: No objection, Your Honor.

3 (Plaintiff's Exh. 1, Sentencing Sheets, is  
4 received in evidence.)

5 BY MR. FALK:

6 Q. What kind of discussion did you have with the trial  
7 counsel, Ms. Taylor, about your prior arrest and your  
8 criminal record?

9 THE WITNESS: Good morning, Your Honor.

10 THE COURT: Good morning.

11 A. First and foremost, I want to go ahead and start off  
12 by saying that on the morning -- actually, that afternoon,  
13 and the reason why I'm filing for my ineffective assistance  
14 of counsel, because I feel that counsel was ineffective  
15 assistance for the way she advised me on which I was supposed  
16 to plead a lesser-included offense for which I was indicted.

17 Also, within the body and the heading of my  
18 indictment, they never stated first, second or third. So on  
19 the afternoon when I came in, and I told Attorney Taylor, my  
20 wife also sitting back there, Alicia Magnum Jenkins, she was  
21 also present when I was talking to Attorney Taylor, and I  
22 told her -- she was like, you are being indicted for third  
23 offense. I never, ever had a second offense.

24 But as time went on, when I was investigating,  
25 during the investigation, preparing all the stuff and

1 everything as far as my PCR application is concerned, also  
2 Attorney Falk, also I had filed a motion for summary judgment  
3 that states in there that on that day when I was talking to  
4 Attorney Taylor, I told her I never, ever had a third  
5 conviction.

6 So during the time of my -- when I got the paperwork  
7 back, when I filed also with the clerk of court, I asked for  
8 my old sentencing sheets back from 2010 to figure out how I  
9 got the third conviction. I never, as far as my PWID or  
10 distribution and manufacturing, my charge, it was all first  
11 offenses. The only time it was considered as a second  
12 offense, when they did the proximity of a school. And also,  
13 Your Honor --

14 Q. Mr. Jenkins, let me ask you. I think the judge is  
15 going to want me to ask you questions as opposed to going  
16 into a narrative. And if there's anything in the end you  
17 want to wrap up with, I will give you that opportunity.

18 A. Okay.

19 Q. So what kind of discussions did you have with your  
20 trial counsel about your prior drug arrest?

21 A. Well --

22 Q. Because you said that day -- I think your testimony  
23 was you walked in and she told you it was a third offense,  
24 and you said no.

25 A. Yeah. I told her it wasn't no third offense,

1 because I only was convicted under one. She said because it  
2 was two different dates, or whatever, that they can consider  
3 it, you understand, as one offense, but they can come back  
4 and separate it. You understand? Because January 6th and  
5 January 8th was the original dates that the crimes had  
6 happened in 2010. But they ran it altogether as one offense.  
7 So she said that they can come back and separate it.

8 Q. Was there any discussion with the court or about  
9 whether or not that should be treated as a first offense or  
10 second offense?

11 A. No, sir.

12 Q. Did she tell you that -- did she tell you any of the  
13 factors that would be considered as to how they would be able  
14 to sentence it as a first offense, whether it would be  
15 considered really the same transaction?

16 A. No, sir. When she -- before we even went in the  
17 courtroom, she stepped off in another room to speak to the  
18 solicitor. When she came back, she told me that they said it  
19 was a third offense. That was it. And I kept -- all the way  
20 up to the time before the plea hearing, I kept telling her, I  
21 never, ever got convicted of a second conviction.

22 Q. Did she show you your NCIC records, your criminal  
23 record sheet? Was she just going on -- was it your  
24 understanding that she was just going on what the solicitor  
25 was telling her?

1           A.    Yes, sir.

2           Q.    Was it your understanding that you were going to  
3 plead guilty, but that you were going to get some concession  
4 for pleading guilty?

5           A.    Yes.  I was supposed to be pleading to a  
6 lesser-included offense, which I accepted it was.

7           Q.    And so would it be your understanding today that a  
8 lesser-included offense of -- what is your understanding of  
9 whether or not possession second is a lesser-included offense  
10 of possession third?

11          A.    Well, if I'm -- I was charged with distribution,  
12 so --

13          Q.    Excuse me, distribution.

14          A.    Well, of course, you know, distribution, in order  
15 for a lesser-included offense, for a lesser-included offense,  
16 the greater offense has to have at least one or more  
17 additional elements to differentiate the two offenses.  Here,  
18 the elements are the same for both offenses.  Distribution is  
19 not the lesser-included offense of distribution.  Possession  
20 is the lesser-included offense of distribution.  I'm citing  
21 from *Schmuck v. U.S.*, Your Honor, 489 U.S. 705.

22          Q.    But none of the indictments that you received said  
23 whether or not it was a first or second or third offense; is  
24 that correct?

25          A.    No, sir.  I was never put on notice of which one it

1 was through my indictment. Even also, if you -- over there  
2 in my paperwork, you can see, Your Honor, if Attorney Falk  
3 will show it to you and show it to other counsel, that also,  
4 in my arrest affidavit, it says possession on arrest  
5 affidavit. And then on -- no, on the arrest warrant, but on  
6 the affidavit, it says distribution. And never said first,  
7 second or third. So it's still erroneous. And it was  
8 nothing in the record.

9 Q. Safe to say, you went into the plea not really  
10 knowing what your charge was?

11 A. Exactly.

12 Q. How much conversation did you have with your lawyer  
13 about what your charge was?

14 A. Not even 20, 25 minutes.

15 Q. How much time total did you spend with her over the  
16 course of her representation?

17 A. About 40, 45 minutes, something like that.

18 Q. Okay. Were you out on bond at the time?

19 A. Yep.

20 Q. So just so I can summarize, it's your position that  
21 distribution second is not a lesser-included offense of  
22 distribution third because all the elements are exactly the  
23 same?

24 A. Yes, sir.

25 Q. And it's also your argument that the indictments

1 that you were given failed to give you proper notice of what  
2 your charges were against you?

3 A. Correct.

4 Q. And also, your argument that you were not apprised  
5 about whether or not the two -- you gave different --

6 MR. FALK: may I approach, Your Honor?

7 THE COURT: Sure.

8 MR. FALK: I'm sorry. Beg the Court's indulgence  
9 one more moment, please.

10 BY MR. FALK:.

11 Q. What I'm going to show you is the arrest affidavit  
12 which covered Warrant No. K343323, which was in that packet  
13 from your 2010 conviction. And then I'm also going to show  
14 you the arrest affidavit from Warrant No. K343318. And I'm  
15 going to show you that these two dates, difference on the  
16 dates, one said January 20th and the other one says January  
17 22nd.

18 I believe you testified earlier that different  
19 dates -- does that sound right? There's January 22nd, is  
20 that --

21 A. Correct.

22 Q. Okay. So they were -- they did occur two days  
23 apart?

24 A. Yeah.

25 Q. And that surrounds roughly right to you; it was

1 January 20th and 22nd?

2 A. Right.

3 Q. You weren't arrested in-between that on these two  
4 occasions, were you?

5 A. No. They served -- they served arrest warrant, what  
6 was it, like, February, like February, like February 10th or  
7 something.

8 Q. Is that because there was a confidential informant?  
9 Do you know?

10 A. Yes.

11 Q. Was it the same confidential informant?

12 A. I believe so, it was.

13 Q. I think I've sort of resummarized what your  
14 arguments are. Is there anything else you want to add?

15 A. No. Just basically, you know, it's just what had  
16 happened in such close proximity of time, of course. We know  
17 that South Carolina law notes that any time whenever a  
18 crime -- usually two crimes of the same statute occur within  
19 a certain proximity of time, they can be constituted counts  
20 as one offense, one offense during the time.

21 Q. That day, you thought you were going to go in, and  
22 in exchange for not bringing the State through the cost of  
23 bringing you to trial, you would plead?

24 A. Yes, sir.

25 Q. But that you were going to get some kind of

1 concession for that, and that concession was to plead to the  
2 lesser-included offense?

3 A. Correct.

4 Q. In that time, you knew that you had a prior in  
5 2010?

6 A. Correct.

7 Q. And so it was your understanding that this was now  
8 2000 -- that this was now a second offense?

9 A. Correct.

10 Q. Okay. And at no time did you ever receive any type  
11 of indictment or any information from the State saying that  
12 this was -- that you were being charged with a third  
13 offense?

14 A. Correct, correct. The only time -- only thing that  
15 ever was noted that they considered it a second offense was  
16 the proximity of the school. And with that being said, you  
17 know, that that's extra elements.

18 Q. Yeah. I mean, that was one transaction. So they  
19 got you with distribution, and separate for that distribution  
20 happening within proximity of the school?

21 A. Correct, correct.

22 MR. FALK: I have no further questions, Your Honor.  
23 Please answer any questions the attorney general may have.

24 CROSS-EXAMINATION

25 BY MS. OLIVE:

1 Q. Good morning, Mr. Jenkins.

2 A. Good morning.

3 Q. So, ultimately, you did plead guilty to a second  
4 offense, right?

5 A. On what, on this occasion right here?

6 Q. Right.

7 A. Right.

8 Q. So you are here today arguing that you were indicted  
9 for a third offense, but you should only have been indicted  
10 for a second offense?

11 A. Yes, ma'am, correct.

12 Q. But, ultimately, you pled to a second offense?

13 A. Yes, ma'am.

14 MR. FALK: Your Honor, if I may, that was our whole  
15 point. He was never indicted for a third offense. He was  
16 indicted for a distribution charge. He never got notice of a  
17 third offense.

18 THE COURT: You may continue your cross-examination.

19 MS. OLIVE: Thank you, Your Honor.

20 BY MS. OLIVE:

21 Q. Have you seen your indictment for this charge?

22 A. Yes, ma'am. I have it. It's right there. Also, if  
23 you look yourself, counsel, within the heading or the body on  
24 that indictment, doesn't say first, second, third, seventh,  
25 nothing. Just says distribution of cocaine base.

1 Q. Exactly. So it doesn't tell you whether it's first,  
2 second or third offense at all?

3 A. Exactly.

4 Q. Just has the statute?

5 A. Yes, ma'am. And I'm supposed to be put on notice.  
6 That didn't put me on notice of nothing, because the  
7 indictment was defective itself.

8 Q. But you knew that you were being charged with this  
9 possession with intent distribute?

10 A. Yes, ma'am.

11 Q. Okay.

12 A. And my assumption was second offense, ma'am.

13 Q. And you knew that from the indictment?

14 A. Yes, ma'am.

15 Q. Okay.

16 A. No. Pardon myself. Correction. I knew that from  
17 how many times I was arrested.

18 Q. Okay. But didn't you also have a prior conviction  
19 for possession of cocaine from 2001?

20 A. Yes, ma'am. That was seven years past, which is  
21 actually -- excuse me, ten years.

22 Q. Okay. And, again, you were actually -- were you not  
23 serving probation for your 2010 offenses when you were --  
24 when you pleaded guilty to this charge?

25 A. Yes, ma'am.

1 Q. Okay.

2 A. No, ma'am. I actually had completed probation. I  
3 completed probation May 30th. Before I pleaded guilty, I  
4 completed probation May 30th. I pled guilty on August  
5 28th.

6 Q. Okay. But your 2010 conviction, you got 10 years  
7 suspended to four years with two years of probation?

8 A. Yes, ma'am.

9 Q. Okay. And those offense dates for those charges,  
10 one was on January 20th of 2010, and one was on January 22nd  
11 of 2010?

12 A. Yes, ma'am.

13 Q. Okay.

14 A. Both ran concurrent.

15 Q. I'm sorry?

16 A. Everything ran concurrent, the proximity and the  
17 distribution all ran concurrent.

18 Q. But those offenses happened on two different days,  
19 right?

20 A. Yes, ma'am.

21 Q. So, Mr. Jenkins, are you here today wanting a trial?

22 A. Well, actually, I'm being granted relief. I just  
23 want correction on my charge. First of all, because I was  
24 supposed to be pleading to possession, not distribution.

25 Q. Okay. So you are seeking a correction of your

1 charge to a second offense from a third offense?

2 A. No, correction on my charge from distribution to  
3 possession. That's what my agreement. I was supposed to be  
4 pleading to a lesser-included offense.

5 Q. But you pleaded guilty to the lesser-included  
6 offense of distribution, cocaine base, second, correct?

7 A. Counselor, it's still the same offense. That's what  
8 I'm saying. In order for it to be a lesser-included offense,  
9 there has to have -- for the greater offense, it has to have  
10 at least one or more additional elements to differentiate the  
11 two offenses. They are the same offense. That's not --  
12 distribution is not the lesser-included offense of  
13 distribution now.

14 Q. So it's your position today -- you are asking for a  
15 trial today, right?

16 A. Yeah.

17 Q. Okay. So you want to get tried on your distribution  
18 charge, because that's what you were indicted for, was  
19 distribution, right?

20 A. Yes, ma'am. But I was supposed to be pleading,  
21 because my plea agreement was -- which is a breach. I was  
22 supposed to be pleading to lesser-included offense. The  
23 boxes is clearly checked and marked that the agreement was I  
24 was supposed to be pleading to a lesser-included offense.  
25 But if both offenses are one and the same, how could it be a

1 lesser-included offense of which I was charged and indicted.  
2 It's not.

3 Q. Okay. So you disagree that the second offense is a  
4 lesser-included offense of a third offense?

5 A. I disagree that distribution is not the  
6 lesser-included offense, ma'am, of distribution. The  
7 lesser-included offense of distribution is possession.  
8 That's the lesser charge of distribution.

9 Q. But on the record at your plea, it was stated that  
10 you were pleading to distribution, cocaine base, second  
11 offense, correct?

12 A. Yes, ma'am, on advice of my counsel, ma'am.

13 Q. There was never any offer to plead to possession,  
14 right?

15 A. No, no. I'm assuming that -- by my counsel's advice  
16 as to what I pled to, you know. I didn't know until actually  
17 before I went on in the file, the paperwork, and went in the  
18 law library and did my research myself of finding out which  
19 is the lesser-included offense of the charge. So the lesser  
20 charge of which I was pleading to is possession.

21 Q. But you didn't tell the judge that day that you  
22 wanted to withdraw your plea?

23 A. If I had knew, if I had knew that it was not the  
24 lesser-included offense which I was indicted for, I would  
25 have never had pled guilty to it. I would have insisted on

1 going to trial.

2 Q. Is that because you wanted less time?

3 A. No, ma'am. I just wanted to be charged the correct  
4 charge in which I was supposed to be agreeing upon, which is  
5 the lesser-included offense.

6 Q. Okay. But you never said anything to the judge that  
7 day?

8 A. No, ma'am. I went off my counselor's advice.

9 Q. And you told the judge you had no complaints against  
10 counsel and that you did not need any more time to consult  
11 with counsel.

12 A. No, ma'am, because I assumed my counsel was aware of  
13 everything going on. I trusted my counsel.

14 MS. OLIVE: Thank you, Mr. Jenkins. That's all the  
15 questions I have.

16 MR. FALK: No redirect.

17 THE COURT: All right. You may step down.

18 Call your next witness, if you have one.

19 MR. FALK: Ms. Taylor, Donna Taylor to the stand.

20 DONNA TAYLOR,

21 having been duly sworn, testifies as follows:

22 THE CLERK: If you will please state your name,  
23 spelling your last name.

24 THE WITNESS: Donna K. Taylor, T-a-y-l-o-r.

25 DIRECT EXAMINATION

1 BY MR. FALK:

2 Q. Ms. Taylor, how did you come to represent  
3 Mr. Jenkins in this action?

4 A. His brother was a long-time client of mine and  
5 contacted me. I had started my career as a public defender.  
6 And I had represented his brother back then, and he asked me  
7 if I would meet with him. I think he had had a public  
8 defender prior to my representation. And then Melissa Gay,  
9 another private attorney, had represented him.

10 And so I talked with Melissa to see if it was okay.  
11 And then I agreed that I would talk with him. And that's how  
12 I met him.

13 Q. Okay. And during the course of your representation,  
14 did you review his NCIC criminal record report?

15 A. I did.

16 Q. Did you draw any conclusions about how many prior  
17 offenses that he had?

18 A. I looked at the NCIC report. I checked some other  
19 information. And I met with Ms. Young, who was the  
20 prosecutor at the time. In addition, and I could be wrong  
21 about this, but my recollection is, and from the notes and  
22 from what was in the plea, I believe, there was a 2006  
23 conviction for substance abuse, which she counted as a prior.  
24 And then there were the charges from 2010. And so based on  
25 that, she -- and there was information from -- it may have

1     been -- and, I'm sorry, I don't remember entirely, a Victoria  
2     may have been the public defender.

3             But I know that I got from either the public  
4     defender or from Ms. Gay an e-mail from prior counsel of his  
5     that was communicating the same offer that we ended up taking  
6     a year or so before, which was distribution third, and  
7     related that he had this 2006 conviction in addition to the  
8     series in 2010.

9             So my recollection is that it was -- those were the  
10    two priors that got him to the third. There was no question  
11    that Kelly believed that he was a third, this conviction  
12    would have been -- the conviction of my distribution, because  
13    he also had two prior possessory arrests in the interim that  
14    he was facing.

15            Q.    Was he ever indicted for distribution, third  
16    offense?

17            A.    He was indicted for distribution of cocaine in the  
18    December 1st, 2012, incident, which is what he pled to.

19            Q.    So you negotiated a plea agreement?

20            A.    I really didn't negotiate. Like I indicated, the  
21    offer had been made to him prior to him coming to me. When  
22    he came to meet with me with his wife, and I've spoken again  
23    to his brother, who, as I said, I've known for years, Senior  
24    had issues. He had mental health issues. And he had a  
25    decade's-plus drug addiction issue. What I told him I would

1 try to do for him, if he wanted me to -- because when his  
2 brother contacted me, Senior was due to go to court with, I  
3 believe, Ms. Gay. And he was not happy with her. So he was  
4 trying to replace her. And it was two years plus after the  
5 arrest. So I knew that it was something that was coming up  
6 quickly.

7 And I was clear with him and his wife and his  
8 brother that if he wanted a trial, there was nothing I could  
9 do for him. This was an undercover buy to a police officer.  
10 There's audio. There's an informant tape. There's video of  
11 the transaction. If he wanted to go to trial, I was not  
12 going to ride that pony for him.

13 But if he wanted me to see if I could help get him a  
14 better offer, and specifically get him into either drug court  
15 or mental health court, which was the primary goal, that I  
16 would do that and I would be happy to then take the case, if  
17 he wanted me to try to do that with the understanding that he  
18 would, one way or the other, be entering a plea, because he  
19 never denied the transactions, any of them.

20 Q. When did you tell him that this would be his third  
21 offense?

22 A. The first time I ever met Senior, he knew it was his  
23 third offense, charge. That's what he was charged with. He  
24 had already gotten the information -- again, he may be able  
25 to tell you. Victoria was the public defender he had before

1 Ms. Gay, or who she was, but there was an e-mail to her of:  
2 This is the third offense, but I will let him plead to a  
3 second. It was a tiny, tiny amount of crack that was sold.

4 Q. So this was not a deal that you negotiated? This  
5 was a deal he already had?

6 A. He had already received this offer, yes.

7 Q. Okay. And did you explain to him what the  
8 lesser-included offense was that he was pleading to?

9 A. What I explained to him was that he was facing, if  
10 we were to go to trial or he were to plead straight up  
11 distribution of cocaine, third offense, that Ms. Young, due  
12 to his history and minute amount of drugs involved, most of  
13 his priors, I think, if not at all, were possessory, that he  
14 would be allowed to plead to a second offense of  
15 distribution, not a third.

16 MR. FALK: No further questions.

17 THE COURT: All right. Cross.

18 CROSS-EXAMINATION

19 BY MS. OLIVE:

20 Q. Thank you, Your Honor. Good morning, Ms. Taylor.

21 A. Good morning.

22 Q. Ms. Taylor, how long have you been practicing law?

23 A. Since 1984.

24 Q. And what portion of that has been criminal?

25 A. First eight years was completely as a public

1 defender in private practice from '91 until 2006. It was  
2 probably 85 to 90 percent still criminal, but primarily in  
3 the Federal District Court.

4 In 2006, I, along with three other women, formed a  
5 firm. And I still primarily do criminal. They do  
6 substantially civil. So I have sort of learned a little bit,  
7 but more than I'm still comfortable with; civil practice, but  
8 I also do probate work.

9 Q. Had you represented defendants charged with drug  
10 charges prior to representing Mr. Jenkins?

11 A. Yes.

12 Q. Were you familiar with the enhancements statutes?

13 A. Yes.

14 Q. Do you recall how many times you met with  
15 Mr. Jenkins? I know that you stated you were retained pretty  
16 late in the game. Do you recall how many times you met with  
17 him?

18 A. Well, I don't know that I was ever retained, but I  
19 represented Senior from late spring or early that summer, not  
20 for a very long time. But I met with him and his wife on at  
21 least four different occasions in my office. It was  
22 primarily because, again, my goal was to get his medical  
23 records, which we were able to get. I was trying to get him,  
24 because he had been in the, I think, Navy. He had veterans  
25 benefits. And I spoke with Meredith at the VA, who runs a

1 program for vets in trouble with substance abuse, which they  
2 were familiar with Senior. He had had a diagnosis of  
3 post-traumatic stress. So he had some counseling with that.

4 He was self-medicating. He was still addicted. He  
5 had been addicted since the mid '90s. His wife, who was very  
6 helpful, but also had some issues, was trying, as well as his  
7 brother, trying to get him to get into a program. And we had  
8 him ready to go into the program, but then he used again.  
9 And so the position was that they were not going to try to --  
10 the prosecutor was not willing to put him into mental health  
11 court because of his history of noncompliance and because it  
12 was a distribution. They had trouble with both of those.

13 So we met several times for significantly longer  
14 ever than 45 minutes. We talked about his history. And we  
15 talked about what he needed to be doing and how we could get  
16 him where we needed to get him.

17 Q. Did you have discussions with him concerning his --  
18 the likelihood that he would not be convicted if he had gone  
19 to trial?

20 A. Did I have discussions with him? We had  
21 discussions. The very first discussion was that if he -- if  
22 he wanted to go to trial, then I was not going to be able to  
23 help him. I was not willing to take on a case that was  
24 already two years old, up for trial, especially this case,  
25 which, again, was overwhelming evidence available to the

1 State. But he never wanted a trial. He never denied that he  
2 had done this transaction. So we didn't -- there was never,  
3 ever any idea of going to trial.

4 Q. Did you feel that you had any grounds to challenge  
5 the indictment in this case?

6 A. No.

7 Q. Did you attempt to -- you stated there was already  
8 this offer on the table. Did you attempt to -- did you speak  
9 with the solicitor concerning any more favorable offers?

10 A. I had several discussions with Ms. Young about what  
11 we were trying to do. And I still believe that it would have  
12 been the right thing to do for him. Whether he would have  
13 been able to handle it and succeed through it, I don't know.  
14 But what I was trying to do was to get him a probationary  
15 sentence where he could be put back into the VA program and  
16 be monitored to have this one more chance to see if he could  
17 get a handle on his situation.

18 Even after the plea where all of that was presented  
19 in documents as well to our judge, I did a motion to  
20 reconsider and then resubmitted that. And Judge -- I think  
21 it was Hocker, if I pronounced it correctly, who was very  
22 compassionate, very nice throughout the whole process in the  
23 original plea, but allowed us to have a phone conference to  
24 talk about that. And I think his problem was that the  
25 two-year prior sentence had been a ten-year sentence. And he

1 had already given him less than his prior prison sentence  
2 that didn't seem to affect his participation in the narcotics  
3 world.

4 And he was very nice. He responded to it. Put in  
5 the order, but just said he just couldn't do what I asked,  
6 which was to give him -- I think suspend it down to two  
7 years. That would allow him to have time in the prison to be  
8 completely clean, come back out supervised, and enter the  
9 veterans program.

10 Q. So you made a motion to reconsider, but, ultimately,  
11 Judge Hocker denied that motion?

12 A. Yes.

13 Q. Were there ever any discussions with the solicitor  
14 about pleading to a possession charge as opposed to a  
15 distribution charge?

16 A. Well, there were. And he had, in addition to the  
17 distribution charge, two possessory charges pending at the  
18 time that I represented him as well. I mean, of course, I  
19 asked, can he plead to one of those. But, of course, she  
20 said no, he sold to an undercover cop.

21 Q. So the solicitor was unwilling to -- the State was  
22 unwilling to offer anything less than the second offense?

23 A. They were unwilling to not only offer anything less,  
24 but to offer either of the two alternative options or any  
25 nonprison time. She actively sought prison time.

1 Q. Did you explain this to Mr. Jenkins?

2 A. Every time we met.

3 Q. You stated previously that he never indicated a  
4 desire to go to trial?

5 A. Never.

6 MS. OLIVE: Thank you. That's all the questions I  
7 have.

8 THE COURT: Any redirect?

9 MR. FALK: No redirect.

10 THE COURT: You may step down. Thank you.  
11 Any other witnesses?

12 MS. OLIVE: No witnesses from the State.

13 MR. FALK: No witnesses.

14 THE COURT: I will think about the matter today and  
15 I will rule by the end of the day. Thank you.

16 (Whereupon, proceedings are adjourned.)

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CERTIFICATE OF REPORTER

I, Karen V. Andersen, Registered Merit Reporter,  
Certified Realtime Reporter for the State of South Carolina  
at Large, do hereby certify that the foregoing transcript is  
a true, accurate and complete Transcript of Record of the  
proceedings.

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

  
Karen V. Andersen  
Registered Merit Reporter  
Certified Realtime Reporter

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS. SENIOR JENKINS
AKA:
Race: B Sex: M Age: 35
DOB: -1975 SS#
Address: KENNEDY STREET APT
City, State, Zip: CHARLESTON, SC 294030000
DL#: SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS1003224
A/W#: K343318
Date of Offense: 1/20/2010
S.C. Code § : 44-53-0375 (B) (1)
CDR Code #: 3014

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: PWID/Dist/Mfg Cocaine Base or Meth, 1st Offense:

CONVICTED OF or PLEADS

in violation of § 44-53-0375 (B) (1) of the S.C. Code of Laws, bearing CDR Code # 3014
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

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

ATTEST: Stephanie Blunder 72656 Defendant
C. W. ... 76644 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

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

Payment Terms: ATTEST: A TRUE COPY
Set by SCDPPPS JULIE J. ARMSTRONG (SEAL) CLERK, C.P., G.S. & E.C.
Recipient: DEPUTY CLERK
\*Fine:
§ 14-1-206 (Assessments 107.5%) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
§ 47.12 (Public Def/Prob) \$500 \$
§ 14-1-212. (Law Enforce. Funding) \$25 \$
§ 14-1-213. (Drug Court Surcharge) \$100 \$ 100.00
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$ 6.90
TOTAL \$ 236.90

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



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

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

Presiding Judge
Judge Code:
Sentence Date: 6/10/10

SLB20100301226

DOCKET NO. 2010GS1003224

WITNESSES

Charleston City Police Department

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

1001125

COURT OF GENERAL SESSIONS

May Term 2010

ARREST WARRANT NUMBER

K343318

DATE OF ARREST

March 5, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

MAY 10 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT

10 1216 (01)

THE STATE

vs.

SENIOR JENKINS

DOB: 1975

B/M

Indictment for

Distribution of Cocaine Base

FILED

6/2/2010 5:30:09 PM  
JULIE J. ARMSTRONG  
CLERK OF COURT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

INDICTMENT

At a Court of General Sessions, convened on May 10, 2010 the Grand Jurors of Charleston County present upon their oath:

Distribution of Cocaine Base

That in Charleston County, South Carolina, on or about January 20, 2010, the Defendant, SENIOR JENKINS, did manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to distribute, dispense or deliver a controlled substance or a controlled substance analogue, to wit: Cocaine Base; in violation of 44-53-375 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.



STEPHANIE B. LINDER  
ASSISTANT SOLICITOR

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, Inv. J. Shealy, who first being duly sworn deposed and says that, Senior Jenkins, did within this county and state on the 20 January 2010 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Distribution of Cocaine Base  
44-53-375

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

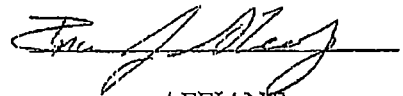
That on January 20, 2010 at approximately 1407hrs., while in the area of Senate St. and Strawberry Ln., which is located in the City and County of Charleston South Carolina 29403, the above named defendant (Senior Jenkins) did knowingly, willingly, and unlawfully violate South Carolina Statute (44-53-375) Distribution of Cocaine Base in the following manner:

That on the above date, time, and location, the defendant did distribute 0.10 grams of an off white in color rock like substance consistent with that of Cocaine Base to a confidential informant (CI) working under the direction and control of the Charleston Police Department Narcotics Unit in exchange for a sum of prerecorded US Currency taken from the Official Narcotics Fund. Prior to the transaction, the CI was equipped with an audio/video recording device and the entire transaction was recorded. The Charleston Police Department Forensic Division tested the off white in color rock like substance to be positive as 0.10 grams of Cocaine Base. It should be noted that the narcotics transaction did occur within one half mile of Charleston Catholic School at 888 King St. Charleston, SC 29403.

The above is true and believable based on the observation and investigation of Sgt. Robertson, Inv. Shealy, Inv. Grill, Inv. Sumner, Inv. Piecuch, Inv. Galluccio, and Sgt. Lites of the City of Charleston Police Department.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 5<sup>th</sup> DAY OF March, 2010



AFFIANT

180 Lockwood Blvd.  
Charleston, SC 29403  
843-577-7434



(L.S.)  
SIGNATURE OF JUDGE

COMPLAINT #: 1001125  
WARRANT# K-343318  
CPD Form OT3

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, Inv. J. Shealy, who first being duly sworn deposed and says that, Senior Jenkins, did within this county and state on the 22 January 2010 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Distribution of Cocaine Base  
44-53-375

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

That on January 22, 2010 at approximately 1615hrs., while in the area of Senate St. and Strawberry Ln., which is located in the City and County of Charleston South Carolina 29403, the above named defendant (Senior Jenkins) did knowingly, willingly, and unlawfully violate South Carolina Statute (44-53-375) Distribution of Cocaine Base in the following manner:

That on the above date, time, and location, the defendant did distribute 0.18 grams of an off white in color rock like substance consistent with that of Cocaine Base to a confidential informant (CI) working under the direction and control of the Charleston Police Department Narcotics Unit in exchange for a sum of prerecorded US Currency taken from the Official Narcotics Fund. Prior to the transaction, the CI was equipped with an audio/video recording device and the entire transaction was recorded. The Charleston Police Department Forensic Division tested the off white in color rock like substance to be positive as 0.18 grams of Cocaine Base. It should be noted that the narcotics transaction did occur within one half mile of Charleston Catholic School at 888 King St. Charleston, SC 29403.

The above is true and believable based on the observation and investigation of Sgt. Robertson, Inv. Shealy, Inv. Grill, Inv. Sumner, Inv. Picuch, Inv. Galluccio, and SPO Lafromboise of the City of Charleston Police Department.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 5<sup>th</sup> DAY OF March, 2010

AFFIANT  
180 Lockwood Blvd.  
Charleston, SC 29403  
843-577-7434

(L.S.)  
SIGNATURE OF JUDGE

COMPLAINT #: 1001263  
WARRANT# k-347323  
CPD Form OT3

Form Approved by  
S.C. Attorney General  
April 21, 2003  
SCCA-616

**ARREST WARRANT**

**K- 343318**

STATE OF SOUTH CAROLINA

County/  Municipality of  
**CHARLESTON**

THE STATE  
against

**SENIOR JENKINS**

Address: **KENNEDY STRBET, APT**  
**CHARLESTON, SC 29403**

Phone: \_\_\_\_\_ SSN: \_\_\_\_\_

Sex: **M** Race: **B** Height: **5'11** Weight: **140**

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

DOB: **1/1975** Agency ORI#: \_\_\_\_\_

Prosecuting Agency: **CPD**

Prosecuting Officer: **SHEALY**

Offense: **DISTRIBUTION OF COCAINE BASE**

Offense Code: \_\_\_\_\_

Code/Ordinance Sec: **44-53-375**

This Warrant is CERTIFIED FOR SERVICE in the  
 County/  Municipality of \_\_\_\_\_ The accused  
is to be arrested and brought before me to be  
dealt with according to law.

Signature of Judge: \_\_\_\_\_ (L.S.)

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

**RETURN**

A copy of this arrest warrant was delivered to  
defendant *Senior Jenkins*  
on *3-5-10*

Signature of Constable/Law Enforcement Officer: \_\_\_\_\_

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA )  
 County/  Municipality of )  
**CHARLESTON** )

**AFFIDAVIT**

Personally appeared before me, the affiant, **INV. J. SHEALY** who  
being duly sworn deposes and says that defendant **SENIOR JENKINS**  
did within this county and state on **JANUARY 20, 2010** violate the criminal laws of the  
State of South Carolina (or ordinance of  County/  Municipality of **CHARLESTON** )  
in the following particulars:

DESCRIPTION OF OFFENSE: **DISTRIBUTION OF COCAINE BASE**  
**44-53-375**

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

**SEE ATTACHED AFFIDAVIT**

Signature of Affiant: *Inv. J. Shealy*

STATE OF SOUTH CAROLINA )  
 County/  Municipality of )  
**CHARLESTON** )

Affiant's Address: **180 LOCKWOOD DRIVE**  
**CHARLESTON, SC 29403**

Affiant's Telephone: **843-377-7434**

**ARREST WARRANT**

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

It appearing from the above affidavit that there are reasonable grounds to believe that  
on **JANUARY 20, 2010** defendant **SENIOR JENKINS**  
did violate the criminal laws of the State of South Carolina (or ordinance of  
 County/  Municipality of **CHARLESTON** ) as set forth below:

DESCRIPTION OF OFFENSE: **DISTRIBUTION OF COCAINE BASE**  
**44-53-375**

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

Sworn to and subscribed before me  
on **MARCH 5, 2010**

Signature of Issuing Judge: *Bernice King* (L.S.)

Judge's Address: **1720 SAM RITTENBERG BLVD.**  
**CHARLESTON, SC 29407**

Judge's Telephone: **843-766-6531**

Issuing Court:  Magistrate  Municipal  Circuit

**ORIGINAL**

Priscilla B. Baldwin

Judge \_\_\_\_\_  
on MAR 06 2010  
Type and Amount: 10,000  
Name of Surety: \_\_\_\_\_

PRELIMINARY HEARING held by

Judge \_\_\_\_\_  
on \_\_\_\_\_

Defense Attorney \_\_\_\_\_

Disposition \_\_\_\_\_  
by \_\_\_\_\_

Judge \_\_\_\_\_  
on \_\_\_\_\_

by \_\_\_\_\_  
(Indicate jury trial, bench trial, plea, nol. procs., etc.)

Disposition: \_\_\_\_\_

Sentence: \_\_\_\_\_  
JURORS

CHECKLIST

JUD. CRT. CASE # 1574  
HW CASE # 1216  
REPORT GROUP 3614  
YSP. CODE 7910

WITNESSES

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

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

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

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

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

CODEFENDANTS

\_\_\_\_\_

Handwritten notes and stamps on the right side of the page, including a date stamp 'MAR 06 2010' and various illegible markings.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS. SENIOR JENKINS

INDICTMENT/CASE#: 2010GS1003225
A/W#: K343319
Date of Offense: 1/20/2010
S.C. Code §: 44-53-0445(B)(2)
CDR Code #: 0108

AKA:
Race: B Sex: M Age: 35
DOB: [redacted]-1975 SS#: [redacted]
Address: [redacted] KENNEDY ST
City, State, Zip: CHARLESTON, SC 294030000
DL#: [redacted] SID#: [redacted]

SENTENCE SHEET

\*CDL Yes [ ] No [ ] CMY Yes [ ] No [ ] Hazmat Yes [ ] No [ ]
In disposition of the said indictment comes now the Defendant who was TO: PWID/Dist. Cocaine Base in Proximity of School

[ ] CONVICTED OF or [X] PLEADS

in violation of § 44-53-0445(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0108
[X] NON-VIOLENT [ ] VIOLENT [X] SERIOUS [ ] MOST SERIOUS [ ] Mandatory GPS(CSC w/minor 1st or Lewd Act) [ ] §17-25-45

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

TEST: [Signature] Leader, Stephanie B. SC Bar# [redacted] Defendant
[Signature] C. W. [redacted] Attorney for Defendant SC Bar# [redacted]

WHEREFORE, the Defendant is committed to the: [X] State Department of Corrections, [ ] County Detention Center,
for a determinate term of 10 days/months/years or [ ] under the Youthful Offender Act not to exceed [ ] years
and/or to pay a fine of \$ [redacted]; provided that upon the service of [redacted] days/months/years and/or payment
of \$ [redacted]; plus costs and assessments as applicable\*, the balance is suspended with probation for [redacted]

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

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

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

SPECIAL CONDITIONS:

[ ] RESTITUTION: [ ] Deferred [ ] Def. Waives Hearing [ ] Ordered PTUP

Total: \$ [redacted] plus 20% fee: \$ [redacted]
Payment Terms: ATTEST: A TRUE COPY

[ ] Set by SCDPPPS [Signature] JULIE J. ARMSTRONG (SEAL)
By [Signature] CLERK OF COURT

Recipient: DEPUTY CLERK

Table with columns for Code, Description, and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, § 47.12 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$100, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, § 90.7 (SCCA Surcharge) \$5, 3% to County (if paid in installments) \$6.90. TOTAL: \$235.90

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

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

Clerk of Court/ Deputy Clerk [Signature]
Court Reporter: M. Ferron
SCCA/217 (11/2009)

Presiding Judge [Signature]
Judge Code: 515
Sentence Date: 6/10/10

78  
SLB 20100301226

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1001125

ARREST WARRANT NUMBER

K343319

DATE OF ARREST

March 5, 2010

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

MAY 10 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2010GS1003225

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

May Term 2010

THE STATE

vs.

10 1216 (02)  
SENIOR JENKINS

DOB: 1975

B/M

Indictment for

Distribution of Cocaine Base within  
Proximity of a School

FILED

6/2/2010 5:30:08 PM

JULIE J. ARMSTRONG

CLERK OF COURT



ARREST WARRANT

K- 343319

STATE OF SOUTH CAROLINA

County/ Municipality of CHARLESTON

THE STATE against

SENIOR JENKINS

Address: KENNEDY STREET, APT CHARLESTON, SC 29403

Phone: SSN:

Sex: M Race: B Height: 5'11 Weight: 140

DL State: DL#:

DOB: 1975 Agency ORI#:

Prosecuting Agency: CPD

Prosecuting Officer: SHEALY

Offense: DISTRIBUTION OF COCAINE BASE

CLOSE PROX SCHOOL Offense Code:

Code/Ordinance Sec: 44-53-445

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

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

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on 3-5-10

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

County/ Municipality of CHARLESTON

Personally appeared before me the affiant INV. J. SHEALY who being duly sworn deposes and says that defendant SENIOR JENKINS did within this county and state on JANUARY 20, 2010 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of CHARLESTON) in the following particulars: DISTRIBUTION OF COCAINE BASE CLOSE PROX TO A SCHOOL 44-53-445

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

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA County/ Municipality of CHARLESTON

Affiant's Address: 180 LOCKWOOD DRIVE CHARLESTON, SC 29403 Affiant's Telephone: 843-577-7434

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that on JANUARY 20, 2010 defendant SENIOR JENKINS did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of CHARLESTON) as set forth below:

DESCRIPTION OF OFFENSE:

DISTRIBUTION OF COCAINE BASE CLOSE

PROX TO A SCHOOL 44-53-445

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

Sworn to and subscribed before me on MARCH 5, 2010

Signature of Issuing Judge

Judge Code: 5627/snsh

Judge's Address: 1720 SAM RITTENBERG BLVD. CHARLESTON, SC 29407

Judge's Telephone: 843-766-6531

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

Priscilla B. Baldwin

WITNESSES

Judge Priscilla B. Baldwin  
on MAR 06 2010

Type and Amount: 107.00

Name of Surety: PRELIMINARY HEARING held by

Judge

on

Defense Attorney:

Decision:

JULIE J. RIMSTRONG  
CLERK OF COURT  
2010 MAR -8 PM 4:11  
DISPOSITION before

Judge

on

by

(Indicate jury trial, bench trial, plea, ngl., pros., etc.)

Disposition:

Sentence:

JURORS

CHECKLIST

SUM. CRT. CASE # 10774-00251

DW CASE # 1216

REPORT GROUP 0108

DISP. CODE 7400

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

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

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

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

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

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

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

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

CODEFENDANTS

2010 MAR 06 PM 4:11  
JULIE J. RIMSTRONG  
CLERK OF COURT  
DISPOSITION before

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, Inv. J. Shealy, who first being duly sworn deposed and says that, Senior Jenkins, did within this county and state on the 20 January 2010 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Distribution of Cocaine Base Close Prox. to a School 44-53-445

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

That on January 20, 2010 at approximately 1407hrs., while in the area of Senate St. and Strawberry Ln., which is located in the City and County of Charleston South Carolina 29403, the above named defendant (Senior Jenkins) did knowingly, willingly, and unlawfully violate South Carolina Statute (44-53-445) Distribution of Cocaine Base Close Prox. to a School in the following manner:

That on the above date, time, and location, the defendant did distribute 0.10 grams of an off white in color rock like substance consistent with that of Cocaine Base to a confidential informant (CI) working under the direction and control of the Charleston Police Department Narcotics Unit in exchange for a sum of prerecorded US Currency taken from the Official Narcotics Fund. Prior to the transaction, the CI was equipped with an audio/video recording device and the entire transaction was recorded. The Charleston Police Department Forensic Division tested the off white in color rock like substance to be positive as 0.10 grams of Cocaine Base. It should be noted that the narcotics transaction did occur within one half mile of Charleston Catholic School at 888 King St. Charleston, SC 29403.

The above is true and believable based on the observation and investigation of Sgt. Robertson, Inv. Shealy, Inv. Grill, Inv. Sumner, Inv. Piecuch, Inv. Galluccio, and Sgt. Lites of the City of Charleston Police Department.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 5th DAY OF March, 2010

[Signature of Affiant]

AFFIANT 180 Lockwood Blvd. Charleston, SC 29403 843-577-7434

[Signature of Judge] (L.S.) SIGNATURE OF JUDGE

COMPLAINT #: 1001125 WARRANT# K-343319 CPD Form OT3

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.

SENIOR JENKINS

AKA:

Race: B Sex: M Age: 35

DOB: 1975 SS#

Address: KENNEDY STREET Apt 1

City, State, Zip: CHARLESTON, SC 294030000

DL#: SID#

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: PWID/Dist. Cocaine Base in Proximity of School.

INDICTMENT/CASE#: 2010GS1003230

A/W#: K343322

Date of Offense: 1/22/2010

S.C. Code §: 44-53-0445(B)(2)

CDR Code #: 0108

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 44-53-0445(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0108
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

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

TEST: Under, Stephanie B. SC Barr# Defendant Attorney for Defendant C. Wanda WINSLOW SC Barr# 76644

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Det. Waives Hearing Ordered PTUP
Total: \$ plus
Payment Terms:
Set by SCDPPPS By: DEPUTY CLERK

Table with columns for Recipient, \*Fine, and various assessment codes (e.g., § 14-1-206, § 14-1-211(A)(1), § 14-1-211(A)(2), § 56-5-2995, § 56-1-286, § 47-12, § 14-1-212, § 14-1-213, § 50-21-114, § 56-5-2942(I), § 90.7, 3% to County) and their corresponding amounts.

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

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

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

Presiding Judge: [Signature]
Judge Code: 215
Sentence Date: 6/10/10

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1001263

ARREST WARRANT NUMBER

K343322

DATE OF ARREST

March 5, 2010

ACTION OF GRAND JURY

TRUE BILL

*Da Lewis*  
Foreperson of Grand Jury

Date: MAY 10 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

May Term 2010

THE STATE

vs.

10 1216(04)  
SENIOR JENKINS

DOR: 1975

B/M

Indictment for

Distribution of Cocaine Base within  
Proximity of a School

FILED

6/2/2010 5:30:09 PM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

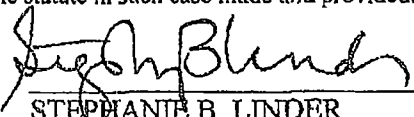
INDICTMENT

At a Court of General Sessions, convened on May 10, 2010 the Grand Jurors of Charleston County present upon their oath:

Distribution of Cocaine Base within Proximity of a School

That in Charleston County, South Carolina, on or about January 22, 2010, the Defendant, SENIOR JENKINS, unlawfully did possess with intent to distribute, distribute, dispense, sell, purchase, or manufacture, a quantity of Cocaine Base within a one-half mile radius of the grounds of Charleston Catholic School located at 888 King Street, all in violation of Section 44-53-445 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.



STEPHANIE B. LINDER  
ASSISTANT SOLICITOR

ARREST WARRANT

K- 343322

STATE OF SOUTH CAROLINA

County/ Municipality of CHARLESTON

THE STATE against

SENIOR JENKINS

Address: KENNEDY STREET, APT CHARLESTON, SC 29403

Phone: SSN: Sex: M Race: B Height: 5'11 Weight: 140

DL State: DL #: 1975 DOB: Agency ORI#:

Prosecuting Agency: CPD Prosecuting Officer: SHEALY

Offense: DISTRIBUTION OF COCAINE BASE CLOSE PROX SCHOOL

Code/Ordinance Sec: 44-53-445

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

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

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant 3-5-10 Senior Jenkins on 3-5-10

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA ) County/ Municipality of CHARLESTON )

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2004 SCCA 618.1

Personally appeared before me the affiant INV. J. SHEALY who being duly sworn deposes and says that defendant SENIOR JENKINS did within this county and state on JANUARY 22, 2010 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of CHARLESTON) in the following particulars: DISTRIBUTION OF COCAINE BASE CLOSE PROX TO A SCHOOL 44-53-445

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

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA ) County/ Municipality of CHARLESTON )

Affiant's Address: 180 LOCK WOOD DRIVE CHARLESTON, SC 29403 Affiant's Telephone: 843-577-7434

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that on JANUARY 22, 2010 defendant SENIOR JENKINS did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of CHARLESTON) as set forth below:

DESCRIPTION OF OFFENSE: DISTRIBUTION OF COCAINE BASE CLOSE PROX TO A SCHOOL 44-53-445

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

Sworn to and subscribed before me on MARCH 5, 2010

Signature of Issuing Judge: Judge Code: 5627/smh

Judge's Address: 1720 SAM RITTENBERG BLVD. CHARLESTON, SC 29407 Judge's Telephone: 843-766-6531

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL



Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, Inv. J. Shealy, who first being duly sworn deposed and says that, Senior Jenkins, did within this county and state on the 22 January 2010 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Distribution of Cocaine Base Close Prox. to a School  
44-53-445

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

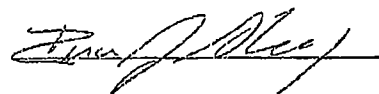
That on January 22, 2010 at approximately 1615hrs., while in the area of Senate St. and Strawberry Ln., which is located in the City and County of Charleston South Carolina 29403, the above named defendant (Senior Jenkins) did knowingly, willingly, and unlawfully violate South Carolina Statute (44-53-445) Distribution of Cocaine Base Close Prox. to a School in the following manner:

That on the above date, time, and location, the defendant did distribute 0.18 grams of an off white in color rock like substance consistent with that of Cocaine Base to a confidential informant (CI) working under the direction and control of the Charleston Police Department Narcotics Unit in exchange for a sum of prerecorded US Currency taken from the Official Narcotics Fund. Prior to the transaction, the CI was equipped with an audio/video recording device and the entire transaction was recorded. The Charleston Police Department Forensic Division tested the off white in color rock like substance to be positive as 0.18 grams of Cocaine Base. It should be noted that the narcotics transaction did occur within one half mile of Charleston Catholic School at 888 King St. Charleston, SC 29403.

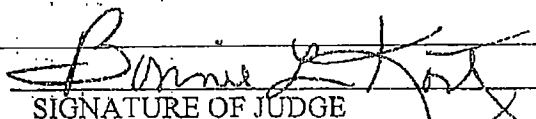
The above is true and believable based on the observation and investigation of Sgt. Robertson, Inv. Shealy, Inv. Grill, Inv. Sumner, Inv. Piecuch, Inv. Galluccio, and SPO Lafromboise of the City of Charleston Police Department.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 5<sup>th</sup> DAY OF March, 2010



AFFIANT  
180 Lockwood Blvd.  
Charleston, SC 29403  
843-577-7434

 (L.S.)  
SIGNATURE OF JUDGE

COMPLAINT #: 1001263  
WARRANT# k-343227  
CPD Form OT3

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS. SENIOR JENKINS

INDICTMENT/CASE#: 2010GS1003231
A/W#: K343323
Date of Offense: 1/22/2010
S.C. Code §: 44-53-0375 (B) (1)
CDR Code #: 3014

AKA:
Race: B Sex: M Age: 35
DOB: -1975 SS#:
Address: KENNEDY STREE
City, State, Zip: CHARLESTON, SC 294030000
DL#: SID#:

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: PWID/Dist/Mfg Cocaine Base or Meth, 1st Offense

CONVICTED OF or PLEADS

in violation of § 44-53-0375 (B) (1) of the S.C. Code of Laws, bearing CDR Code # 3014
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

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

ATTEST: Under, Stephanie B. SC Bar# 72656 Defendant C. Wendon SC Bar# 76640 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

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

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

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

Presiding Judge
Judge Code:
Sentence Date: 6/10/10

Table with columns for Recipient, Fine, and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, § 47.12 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$100, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ca, § 90-7 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$6.90, TOTAL \$236.90

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

ARREST WARRANT

K- 343323

STATE OF SOUTH CAROLINA

County/ Municipality of CHARLESTON

THE STATE against

SENIOR JENKINS

Address: KENNEDY STREET, APT CHARLESTON, SC 29403

Phone: SSN: Sex: M Race: B Height: 5'11 Weight: 140 DL State: DL#: DOB: 1975 Agency ORI#: Prosecuting Agency: CPD Prosecuting Officer: SHEALY Offense: DISTRIBUTION OF COCAINE BASE Code/Ordinance Sec: 44-53-375

This Warrant is CERTIFIED FOR SERVICE in the County/ Municipality of The accused is to be arrested and brought before me to be dealt with according to law

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on 3-5-10

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA County/ Municipality of CHARLESTON

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SOCA 618

Personally appeared before me the affiant INV. J. SHEALY who being duly sworn deposes and says that defendant SENIOR JENKINS did within this county and state on JANUARY 22, 2010 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of CHARLESTON) in the following particulars: DISTRIBUTION OF COCAINE BASE 44-53-375

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

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA County/ Municipality of CHARLESTON

Affiant's Address: 180 LUXWOOD DRIVE CHARLESTON, SC 29403 Affiant's Telephone: 843-577-7434

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that on JANUARY 22, 2010 defendant SENIOR JENKINS did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of CHARLESTON) as set forth below: DISTRIBUTION OF COCAINE BASE 44-53-375

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

Served to and subsequent return on MARCH 5, 2010 Signature of Issuing Judge Judge Code: 5627/kmh

Judge's Address: 1720 SAM RITTENBERG BLVD. CHARLESTON, SC 29407 Judge's Telephone: 843-766-6531 Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL

Judge Priscilla B. Baldwin  
 on MAR 06 2010  
 Type and Amount: 10.00  
 Name of Surety: \_\_\_\_\_

PRELIMINARY HEARING held by

Judge \_\_\_\_\_  
 on \_\_\_\_\_

Defense Attorney: \_\_\_\_\_

Decision: D

Judge JULIE ARMSTRONG

on \_\_\_\_\_

by \_\_\_\_\_  
 (Indicate jury trial, bench trial, plea, nol. prosc, etc.)

Disposition: \_\_\_\_\_

Sentence: \_\_\_\_\_

JURORS

ADM. CT. CASE # 1794-3  
 JW CASE # 1216  
 REPORT GROUP 3014  
 REP. CODE 7906

WITNESSES

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

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 Telephone: \_\_\_\_\_

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

CODEFENDANTS

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

RECEIVED  
 MAR 10 2010  
 CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF Charleston  
STATE VS.

SENIOR JENKINS

AKA:

Race: B Sex: M Age: 35

DOB: [redacted]-1975 SS# [redacted]

Address: KENNEDY STREET APT

City, State, Zip: CHARLESTON, SC 294030000

DL#: [redacted] SID#: [redacted]

\*CDL Yes [ ] No [ ] CMV Yes [ ] No [ ] Hazmat Yes [ ] No [ ]

In disposition of the said indictment comes now the Defendant who was TO: PWID/Dist/Mfg Cocaine-Base or Meth, 1st Offense

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS1003231

A/W#: K343323

Date of Offense: 1/22/2010

S.C. Code §: 44-53-0375(B)(1)

CDR Code #: 3014

SENTENCE SHEET

[ ] CONVICTED OF or [X] PLEADS

in violation of § 44-53-0375 (B) (1) of the S.C. Code of Laws, bearing CDR Code # 3014  
[X] NON-VIOLENT [ ] VIOLENT [ ] SERIOUS [ ] MOST SERIOUS [ ] Mandatory GPS(CSC w/minor 1st or Lewd Act) [ ] §17-25-45

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

ATTEST: [Signature] 72656 SC Bar# [redacted] Defendant  
[Signature] C. Windsor 76640 SC Bar# [redacted] Attorney for Defendant

WHEREFORE, the Defendant is committed to the [ ] State Department of Corrections, [ ] County Detention Center,  
for a determinate term of 10 days/months/years or [ ] under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

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

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

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

SPECIAL CONDITIONS:

[ ] RESTITUTION: [ ] Deferred [ ] Def. Waives Hearing [ ] Ordered PTUP \_\_\_\_\_ days/hours Public Service Employment

Total: \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_  
Payment Terms: ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
CLERK, C.P., G.S. & F.F.

[ ] Set by SCDPPPS By [Signature] DEPUTY CLERK

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 47.12 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$100	\$ 100.00
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
§ 90.7 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 6.90
TOTAL	\$	\$ 236.90

Clerk of Court/ Deputy Clerk [Signature]  
Court Reporter: M. Perdon  
SCCA/217 (11/2009)

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

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

Presiding Judge: [Signature]  
Judge Code: 2157  
Sentence Date: 6/10/10

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STATE OF SOUTH CAROLINA )  
 COUNTY OF CHARLESTON )  
 )  
 Senior Jenkins, #341212, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2015-CP-10-2152

**ORDER OF DISMISSAL**

FILED  
 2017 AUG 24 PM 12:02  
 JULIE J. [unclear]  
 CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief filed April 13, 2015, by Senior Jenkins (Applicant). Respondent made its Return on November 24, 2015, requesting an evidentiary hearing be held. An evidentiary hearing into the matter was convened January 9, 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 April 2013 term of court, the Charleston County Grand Jury indicted Applicant for distribution of cocaine base (third offense) (2013-GS-10-1996). Donna K. Taylor, Esquire, represented Applicant. Assistant Solicitor Kelley Young prosecuted the case.

On August 28, 2014, Applicant appeared in the Charleston County Court of General Sessions before the Honorable Donald B. Hocker, circuit court judge, and pled guilty to the

lesser-included offense of distribution of cocaine base (second offense) without negotiations or recommendations. Judge Hocker sentenced Applicant to seven years imprisonment. Applicant did not appeal his guilty pleas or sentences.

#### **FACTUAL HISTORY ADDUCED AT THE GUILTY PLEA**

These charges arise from an undercover drug transaction conducted by the City of Charleston Police Department on December 1, 2012. (Plea Tr. p. 5-6). During this transaction, an undercover office in the area of Rutledge Avenue and Congress Street exchanged pre-recorded U.S. currency in exchange for approximately 0.2 grams of cocaine base. (Plea Tr. p. 6). The entire transaction was recorded. (Plea Tr. p. 6).

At his plea proceeding, the plea court inquired as to whether Applicant agreed with these facts and Applicant stated he did. (Plea Tr. p. 6). Applicant stated he understood the court could sentence him to up to thirty years imprisonment. (Plea Tr. p. 7). Applicant also stated he was aware of his constitutional rights and wanted to waive them to enter his guilty plea. (Plea Tr. p. 7-9). Applicant stated he had not been threatened or promised anything to induce his guilty plea. (Plea Tr. p. 5). He stated he was satisfied with his attorney's services. (Plea Tr. p. 9-10). Applicant also stated he understood he had ten days to appeal his guilty plea. (Plea Tr. p. 10).

#### **ALLEGATIONS RAISED**

In his application, Applicant alleged he is being held in custody unlawfully based on the following allegations:

1. "PWID, 2<sup>nd</sup> offense is not a lesser included offense of PWID, first offense"
  - a. "SC Code Ann. 44-53-375 (b)(2) is not lesser included offense of 375(B)(1)"

2. "Violation of Notice requirement guaranteed by U.S & S.C. Const. & statutes"
  - a. "There is no indictment alleging a violation of S.C. Code 44/53/375(b)(2)"
3. "Breach of the plea agreement"
  - a. "The offense in which Applicant pled guilty is not a lesser included offense"

At the start of the evidentiary hearing, the State moved to dismiss these allegations a direct appeal issues that cannot be raised in a post-conviction relief action. (PCR Tr. p. 3-4). Applicant, through counsel, responded Applicant would be proceeding forward on the allegation plea counsel was ineffective for failing to advise the plea court that the underlying indictment failed to allege it was a second or third offense and the allegation that counsel was ineffective for failing to investigate whether Applicant's prior drug offense should have been treated as one offense for enhancement purposes. (PCR Tr. p. 4-5).

#### **SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING**

At the evidentiary hearing, Applicant testified on his own behalf. Applicant testified he was represented by a public defender on his original 2010 drug charges that were used to enhance this charge. (PCR Tr. p. 6). He testified he asked counsel why he had been indicted for a third offense when he only had one prior drug offense. (PCR Tr. p. 7-8). Applicant testified counsel advised him that because the 2010 offenses occurred on two separate dates (January 20, 2010 and January 22, 2010) they could be considered separate offenses. (PCR Tr. p. 9, 12-13). He testified counsel did not explain why they could be considered separate offenses and he repeatedly told her the new charges should not be considered a third offense. (PCR Tr. p. 9). Applicant acknowledged these offenses happened on separate dates. (PCR Tr. p. 17). Applicant

testified the State allowed him to plead to a lesser-included offense in exchange for his guilty plea, but he does not think possession with intent to distribute cocaine base is a lesser-included offense of distribution of cocaine base. (PCR Tr. p. 10, 18-19). Applicant testified he only spoke with counsel for 40-45 minutes throughout her entire representation of him. (PCR Tr. p. 11). He testified he knew he had prior drug convictions and understood he should be facing a second offense for the charge subject to this application. (PCR Tr. p. 14). He acknowledged he ultimately pled guilty to a second offense drug crime. (PCR Tr. p. 15).

He also testified the State failed to put him on notice that this was a second or third offense because the indictment did not provide this information. (PCR Tr. p.10-11, 15-16). However, Applicant testified he assumed it was a second offense based on his prior drug convictions. (PCR Tr. p. 16). Applicant acknowledged he also has a possession of cocaine conviction from 2001. (PCR Tr. p. 16). Applicant acknowledged he did not raise any of the issues concerning his indictments or the lesser-included offenses at his guilty plea proceeding. (PCR Tr. p. 19-20). Applicant also testified he informed the plea court he was satisfied with counsel's representation. (PCR Tr. p. 20).

Plea counsel Donna K. Taylor (Counsel) testified next. She testified she became involved in Applicant's case when she was contacted by Applicant's brother, a long term client of hers who asked that she contact him. (PCR Tr. p 21). She testified Applicant had previously been represented by a public defender followed by a retained attorney. (PCR Tr. p. 21). Counsel testified she met with Applicant and his wife on at least four different occasions. (PCR Tr. p. 25). Counsel testified she reviewed Applicant's prior record, which included 2006 drug convictions and 2010 drug convictions. (PCR Tr. p. 21-22). Counsel testified she also reviewed Applicant's

prior record with the prosecutor, who believed this current charge was a third offense based on Applicant's prior drug convictions. (PCR Tr. p. 22).

Counsel testified the offer had already been made while Applicant was represented by former counsel. (PCR Tr. p. 22-23). She testified when Applicant's family contacted her because they were displeased with Applicant's current counsel, she made it very clear to Applicant and his family that she was not going to take the case if Applicant wanted to proceed to trial. (PCR Tr. p. 23). She elaborated:

And I was clear with him and his wife and his brother that if he wanted a trial, there was nothing I could do for him. This was an undercover buy to a police officer. There's audio. There's an informant tape. There's video of the transaction. If he wanted to go to trial, I was not going to ride that pony for him.

But if he wanted me to see if I could help get him a better offer, and specifically get him into either drug court or mental health court, which was the primary goal, that I would do that and I would be happy to then take the case, if he wanted me to try to do that with the understanding that he would, one way or the other, be entering a plea, because he never denied the transactions, any of them.

(PCR Tr. p. 23). She elaborated there was overwhelming evidence of Applicant's guilt and that Applicant never wanted to go to trial. (PCR Tr. p. 26-27, 29). She testified Applicant is a veteran with a history of mental health problems and drug abuse. (PCR Tr. p. 26). She testified she wanted to get him into a treatment program, but he continued to use drugs and the State would not agree to any mental health court or drug court due to his non-compliance and that this case involved a distribution. (PCR Tr. p. 26).

Counsel testified she never had to tell Applicant it was his third drug offense because he was aware of it the first time they met. (PCR Tr. p. 23). She testified Applicant's prior counsel

had already reached an agreement with the State to allow Applicant to plead to a second offense because of the tiny amount of crack cocaine that was involved in this case. (PCR Tr. p. 24). She testified she explained to Applicant that the State was allowing him to plead to a second offense as a lesser-included offense. (PCR Tr. p. 24). She testified she tried to get the State to reduce the charge to possession, but the State refused. (PCR Tr. p. 28-29). She testified she explained this to Applicant. (PCR Tr. p. 29).

Counsel testified she filed a motion to reconsider following Applicant's guilty plea and had a telephone conference with the plea court, but that he would not change or otherwise reduce Applicant's sentence. (PCR Tr. p. 27-28).

#### **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. This Court finds Counsel's testimony credible and finds Applicant's testimony not credible. 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.

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).

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 and that these allegations are without merit. The Court finds plea counsel adequately conferred with Applicant and members of his family, investigate his prior record to determine whether his current charge was correctly enhanced, and attempted numerous times to negotiate a plea sentence that would allow Applicant to avoid prison. Ultimately, this Court finds plea counsel was thoroughly competent in her representation of Applicant and in her advice to Applicant that a guilty plea was in his best interest.

Applicant alleges plea counsel was ineffective for failing to advise the plea court that the underlying indictment failed to establish this was a third drug offense. Applicant testified he was unaware he was charged with an enhanced drug offense based on his prior record until he pled guilty. However, counsel's credible testimony reveals Applicant was aware this offense was a third offense based on his two prior drug convictions from 2006 and 2010. This Court finds Applicant has failed to meet his burden as to this allegation.

Additionally, Applicant alleges plea counsel was ineffective for failing to investigate whether Applicant's prior drug offenses should constitute one offense for enhancement purposes since they were close in time. In support of this allegation, Applicant testified his 2010 drug convictions stemmed from conduct that was two days apart, and due to short time span, should have been considered one offense for enhancement purposes. However, this argument is without merit, as it completely ignores Applicant's other prior drug conviction from 2006. Counsel testified she investigated Applicant's prior record and the current offense qualified as a third offense and that the prosecutor also believed it to be a third offense. Moreover, Counsel testified

Applicant understood it was a third offense. This allegation 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.

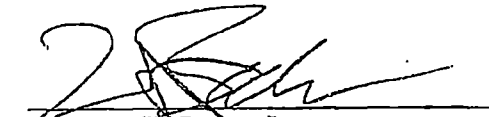
This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRPC, 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 \_\_\_\_\_ day of July, 2017.

[Signature Block Follows on Next Page]

  
WILLIAM H. SEALS, JR.  
Presiding Judge  
Ninth Judicial Circuit

July 27, 2017

Marion, South Carolina

Last Page – Order of Dismissal  
Senior Jenkins, #341212 v. State of South Carolina  
Docket No. 2015-CP-10-2152

KFN20130100529

DOCKET NO. 2013GS1001996

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1219314

ARREST WARRANT NUMBER

2013A1010900025

DATE OF ARREST

January 23, 2013

ACTION OF GRAND JURY

*Janth Bode*  
Foreperson of Grand Jury  
Date: APR 1 2013

VERDICT

Foreperson of Petit Jury

Date:

INDICT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

April Term 2013

THE STATE

vs.

SENIOR JENKINS

DOB: 1975

B/M

Indictment for

Distribution of Cocaine Base



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS. Senior Jenkins

INDICTMENT/CASE#: 2013GS1001996

AKA:
Race: BLACK Sex: M Age: 39
DOB: 1975 SS#:
Address: A Corna St
City, State, Zip: North Charleston, SC 29405
DL#: SID#: SC00865170

A/W#: 2013A1010900025
Date of Offense: 12/1/2012
S.C. Code § : 44-53-0375 (B) (1)
CDR Code #: 3014

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: PWID/Dist/Mfg Cocaine Base or Meth, 2nd Offense (5 - 30 years and/or not more than \$50,000)

in violation of § 44-53-0375 (B) (2) of the S.C. Code of Laws, bearing CDR Code # 3015
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

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

ATTEST: Young, Kelley 100083 Defendant
Dunnham Attorney for Defendant 5084 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 7 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 42 Days Credit
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP
days/hours Public Service Employment

Recipient:

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

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 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, 3% to County (if paid in installments) \$8.40, TOTAL \$288.40

Other: ATU

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

Clerk of Court/ Deputy Clerk Allison Heffernan
Court Reporter: SHAWN VIZEN
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 2167
Sentence Date: 8/28/14

ARREST WARRANT

2013A1010900025

STATE OF SOUTH CAROLINA

County/  Municipality of

Charleston

THE STATE against [redacted] - A Corona St NO. CHAS. 28405

Senior Jenkins

Address: Kennedy St., Apt [redacted]

Charleston, SC 29403-

Phone: [redacted]-2817 SSN: [redacted]

Sex: M Race: B Height: 5 11 Weight: 135

DL State: SC DL #: [redacted]

DOB: 1975 Agency ORI #: SC0100100

Prosecuting Agency: Charleston City Police Department

Prosecuting Officer: Officer Staton - 1693

Offense: Drugs / Possession of less than one gram of meth. or cocaine base, 1st offense

Offense Code: 3009

Code/Ordinance Sec: 44-53-0375 (A)

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

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

(L.S.)

Signature of Judge

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

RETURN

A copy of this arrest warrant was delivered to defendant Senior Jenkins on 1/23/2013

[Signature] 1423  
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions  
Charleston County Judicial Center  
100 Broad Street, Suite 106  
Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/  Municipality of

Charleston

Personally appeared before me the affiant Officer Staton

being duly sworn deposes and says that defendant Senior Jenkins

did within this county and state on or about 12/1/2012

State of South Carolina (or ordinance of  County/  Municipality of Charleston

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Possession of less than one gram of meth. or cocaine base,

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

See Attached Affidavit

DMD

Signature of Affiant

[Signature]

STATE OF SOUTH CAROLINA

County/  Municipality of

Charleston

Affiant's Address 180 Lockwood Blvd.

Charleston, SC 29403-

Affiant's Telephone (843)577-7434

ARREST WARRANT

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

It appearing from the above affidavit that there are reasons

on or about 12/1/2012 defendant Senior Jenkins

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

County/  Municipality of Charleston ) as set

DESCRIPTION OF OFFENSE: Drugs / Possession of less than one gram of meth. or cocaine base,

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

Sworn to and subscribed before me

on 1/8/2013

[Signature] (L.S.)  
Signature of Issuing Judge

Bonnie Lee Koontz

Judge Code: 5627

Judge's Address 1720 Sam Rittenburg Blvd  
Charleston, SC 29417-186

Judge's Telephone (843)766-6531

Issuing Court:  Magistrate

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

