

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

—————  
Certiorari to Charleston County

Honorable Jean H. Toal, Circuit Court Judge  
—————

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APR 23 2018

S.C. SUPREME COURT

OCTAVIOUS LEON CARR,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-002328

—————  
APPENDIX  
—————

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1 STATE OF SOUTH CAROLINA ) COURT OF COMMON PLEAS  
2 COUNTY OF CHARLESTON ) CASE NO. 2014-GS-10-5986;  
 ) 5987; 6220; 2997; 4577

3

4 STATE OF SOUTH )  
CAROLINA, )  
5 ) Transcript of Record  
Plaintiff, )

6

7 vs. )  
Date: April 30, 2015

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OCTAVIOUS LEON CARR, )  
9 Defendant. )

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B E F O R E:

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The Honorable KRISTI L. HARRINGTON

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Denise J. Lauder, RPR

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Ninth Judicial Circuit

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INDEX OF EXHIBITS

(No exhibits were offered or  
marked for identification.)

1 THE COURT: Octavious Carr. Is this a  
2 plea?

3 MR. WARING: Yes, Your Honor.

4 MS. ANDREWS: Your Honor, I need to  
5 have him initial that he's waiving presentment to  
6 the grand jury on --

7 THE COURT: You have the sheets?

8 MS. ANDREWS: Yes, Your Honor.

9 THE COURT: Just trying to locate where  
10 they were.

11 Sir, if you will come and stand by your  
12 attorney.

13 MR. WARING: All of them, Your Honor.

14 THE COURT: I'm sorry?

15 MR. WARING: All of them, Your Honor.  
16 May I approach?

17 THE COURT: I don't have a waiver. So  
18 we are going forward on six, plus a waiver; is that  
19 correct?

20 MR. WARING: Yes, Your Honor.

21 THE COURT: Total of seven. Okay.

22 MR. WARING: I apologize, total of six.

23 THE COURT: I have, let's do it this  
24 way, 2014-GS-10-2997, which is forgery,  
25 2014-GS-10-4577, which is escape. You are going

1 forward on both of those?

2 MR. WARING: Correct.

3 THE COURT: 2014-GS-10-4589, which is  
4 forgery; 2014-GS-10-5986, which is armed robbery;  
5 2014-GS-10-5987, possession of a firearm during the  
6 commission of a violent crime; 2014-GS-10-6220,  
7 which is entering a financial institution with the  
8 intent to steal.

9 Is that all he's going forward on?

10 MR. WARING: Yes, ma'am.

11 THE COURT: What was the waiver?

12 MS. ANDREWS: Your Honor, the escape  
13 charge was reduced to resisting arrest, and so he  
14 waived presentment to the grand jury.

15 THE COURT: Thank you. Please swear in  
16 Mr. Carr.

17 OCTAVIOUS LEON CARR,  
18 being first duly sworn, testified as follows:

19 THE DEFENDANT: Yes, sir

20 EXAMINATION

21 BY THE COURT:

22 Q. Mr. Carr, I have six indictments and I  
23 just read the indictment numbers and charges. Have  
24 you had an opportunity to go over these matters  
25 with your attorney?

1 A. Yes, ma'am.

2 Q. Do you need any additional time to meet  
3 with her?

4 A. No, ma'am.

5 Q. Tell me about yourself. How old are  
6 you?

7 A. 26.

8 Q. How far did you go in school?

9 A. Tenth grade.

10 Q. Do you have your GED?

11 A. No, ma'am.

12 Q. What type of work do you do?

13 A. I wasn't working at the time of my  
14 arrest.

15 Q. Have you ever been employed?

16 A. Yes, ma'am.

17 Q. And what was your last occupation?

18 A. Housekeeping at Holiday Inn, Folly  
19 Beach.

20 Q. Have you ever been treated for the  
21 abuse of drugs or alcohol?

22 A. No, ma'am.

23 Q. Have you ever been treated for mental  
24 illness?

25 A. No.

1 Q. How long have you been in custody?

2 MS. ANDREWS: 335 days, Your Honor.

3 THE COURT: And the victims have been  
4 notified?

5 MR. WARING: Yes, Your Honor.

6 THE COURT: And what is the  
7 recommendation or negotiation?

8 MR. WARING: Your Honor, there is no  
9 recommendation. The State is requesting 20 years  
10 active though.

11 BY THE COURT:

12 Q. Sir, you understand that's merely a  
13 recommendation?

14 A. Yes, ma'am.

15 Q. I do not have to go along with it. I  
16 can sentence you to an armed robbery from ten years  
17 up to 30 years. Do you understand that?

18 A. Yes, ma'am.

19 Q. I can sentence you on possession of a  
20 weapon during the commission of a violent crime up  
21 to five years; do you understand that?

22 A. Yes, ma'am.

23 Q. I can sentence you on entering the bank  
24 with intent to steal up to 30 years; do you  
25 understand?

1           A.    Yes, ma'am.

2           Q.    I can sentence you on resisting arrest  
3 up to one year and fine you from 500 to \$1,000 or  
4 both; do you understand that's a possible  
5 punishment?

6           A.    Yes, ma'am.

7           Q.    I can sentence you on forgery up to  
8 five years and fine you in an amount in the Court's  
9 discretion; do you understand?

10          A.    Yes, ma'am.

11          Q.    You have two forgery counts that would  
12 -- the second one would also carry up to five  
13 years. Do you understand that is the potential  
14 punishment?

15          A.    Yes, ma'am.

16          Q.    Knowing that, do you still wish to go  
17 forward here today?

18          A.    Yes, ma'am.

19          Q.    You have the right to have the case  
20 that you're pleading to, the lesser -- or excuse  
21 me, not the lesser included, to the resisting  
22 arrest presented to the grand jury. You have  
23 initialed the sentencing sheet indicating that you  
24 waive presentiment; is that correct?

25          A.    Yes.

1 THE COURT: And, Ms. Andrews, did you  
2 explain to your client the classifications of armed  
3 robbery?

4 MS. ANDREWS: I did.

5 THE COURT: And did you explain to him  
6 that's a violent and most serious?

7 MS. ANDREWS: Yes, Your Honor.

8 THE COURT: And what did you explain  
9 entering the bank with intent to steal was  
10 classified as?

11 MS. ANDREWS: I explained that was  
12 classified as serious.

13 By THE COURT:

14 Q. Mr. Carr, did your attorney explain to  
15 you what those classifications mean?

16 A. Yes, ma'am.

17 Q. And do you understand what that means  
18 for you in your future?

19 A. Yes, ma'am.

20 Q. And in our own words, to the best of  
21 your ability, can you explain it to me so that I  
22 can understand what it means?

23 A. It means that these charges are serious  
24 that I'm going up against right now.

25 Q. And these are very serious charges, but

1 not all charges are classified as serious or most  
2 serious. Did Ms. Andrews perhaps explain it to you  
3 in context of a strike?

4 A. Yes, ma'am.

5 Q. And the potential of life without the  
6 possibility of parole?

7 A. Yes, ma'am.

8 Q. So right now you are pleading to a most  
9 serious and a serious offence. So if you -- after  
10 you serve this time, if you were to commit another  
11 serious or most serious offence, the State could  
12 seek to serve you with life without the possibility  
13 of parole no matter what the charges may be -- or  
14 the potential punishment. Do you understand what  
15 that means?

16 A. Yes, ma'am.

17 Q. Do you still wish to enter into this  
18 plea?

19 A. Yes, ma'am.

20 Q. The armed robbery is also classified as  
21 violent. Did Ms. Andrews explain to you perhaps  
22 something around 85 percent or 65, or something of  
23 that nature?

24 A. Yes, sir.

25 Q. Do you understand that I always advise

1 defendants that they should expect to serve day for  
2 day the sentence that I will impose here today?

3 A. Yes, ma'am.

4 Q. And you may have been told this is  
5 85 percent and you would have to serve that before  
6 you have the potential for parole, but you  
7 understand that you should always assume that  
8 you're going to serve the maximum sentence?

9 A. Yes, ma'am.

10 Q. Knowing that, do you still wish to go  
11 forward here today?

12 A. Yes, ma'am.

13 Q. Do you understand what those two  
14 classifications mean, Mr. Carr?

15 A. Yes, ma'am.

16 Q. Okay. And you still wish to go forward  
17 here today?

18 A. Yes, ma'am.

19 Q. You do not have to plead guilty here  
20 today. By pleading guilty you are giving up  
21 certain rights; your right to a jury trial; your  
22 right to have a jury determine your guilt beyond a  
23 reasonable doubt based upon the evidence the State  
24 presents, as well as any evidence that you may  
25 introduce; your right to self-incrimination, your

1 right to say nothing at all; your right to confront  
2 and be confronted by the witnesses against you; as  
3 well as the right to call witnesses on your behalf.  
4 By pleading guilty here today you give up any  
5 defense that you have to these charges. Do you  
6 understand those rights?

7 A. Yes.

8 Q. And you waive those rights at this  
9 time?

10 A. Yes, ma'am.

11 Q. Understanding the charges that you are  
12 facing, the possible punishment, as well as the  
13 consequences of this plea, how do you plead to  
14 armed robbery?

15 A. Guilty.

16 Q. How do you plead to entering the bank  
17 with intent to steal?

18 A. Guilty.

19 Q. How do you plead to possession of a  
20 weapon during the commission of a violent crime?

21 A. Guilty.

22 Q. How do you plead to forgery?

23 A. Guilty.

24 Q. How do you plead to forgery under 4589?

25 A. Guilty.

1 Q. How do you plead to resisting arrest?

2 A. Guilty.

3 Q. Are you pleading guilty because you, in  
4 fact, are guilty?

5 A. Yes, ma'am.

6 Q. Did anybody promise you anything,  
7 threaten you, force you to plead guilty here today?

8 A. No.

9 Q. Whose decision was it for to you plead  
10 guilty?

11 A. It was mine.

12 Q. Have you been satisfied with the  
13 services of Ms. Andrews?

14 A. Yes, ma'am.

15 Q. Any complaints about the way that she  
16 handled this case?

17 A. No.

18 Q. You have the right to appeal this plea  
19 and the sentence that I will impose, but you or  
20 your attorney must do so within ten days. Do you  
21 understand?

22 A. Yes, ma'am.

23 THE COURT: Please present the facts,  
24 Mr. Waring.

25 MR. WARING: Thank you, Your Honor.

1 May it please the Court. On December 22, 2013, at  
2 8:10 in the evening, the Defendant approached the  
3 cashier at the Wal-Mart at [REDACTED]  
4 in an attempt to get change for a hundred-dollar  
5 bill. Cashier notified the Loss Prevention Center  
6 as well as the police officer that the bill was  
7 counterfeit. The Defendant was then apprehended  
8 and an associate of the Defendant's confessed to  
9 him being the primary perpetrator.

10 On April 30, 2014, at 7:20 p.m., the  
11 Defendant entered a different Walmart on Folly Road  
12 and purchased a money card using some counterfeit  
13 bills. The loss prevention officer had some photos  
14 of the Defendant and multiple police officers  
15 identified him as the perpetrator.

16 On May 5, 2014, at 9:00 p.m., DPT  
17 officer saw the Defendant and recognized him as  
18 having outstanding warrants. The Defendant was  
19 detained and placed into a patrol vehicle. At one  
20 point the Defendant jumped out of the vehicle and  
21 fled.

22 On May 14, 2014, at 1:30 in the  
23 morning, the Defendant entered the Hanahan A & M at  
24 [REDACTED], pointed a gun at the clerk, he  
25 demanded money from the clerk and was wearing a

1 black-hooded sweatshirt and sunglasses. The  
2 Defendant followed the victim and took \$300 cash  
3 before fleeing.

4 Later on, the victim was watching the  
5 news and recognized the Defendant as being the  
6 robber. The Defendant was on TV for a different  
7 crime that happened later that day.

8 Later that day on May 14, 2014, at  
9 12:50 in the afternoon, the Defendant was captured  
10 on video surveillance at First Citizens Bank at  
11 9205 University Boulevard handing the teller a  
12 note. The Defendant was wearing the same disguise,  
13 dark-hooded sweatshirt, sunglasses, had a backpack  
14 on. The note said he had a gun and he was  
15 demanding money, but no ink money. The clerk gave  
16 the Defendant a quantity of ink money and then the  
17 Defendant fled the scene.

18 Later officers found a large amount of  
19 cash behind the business that had exploded with red  
20 dye. A witness saw the Defendant running with the  
21 bag of cash that he had thrown down once the dye  
22 exploded. When police finally arrested the  
23 Defendant, he was wearing similar pants and shoes  
24 that matched those the robber was wearing on video.

25 Crime Scene processed the note, took

1 fingerprints that came back as positive for the  
2 defendant. A search warrant was also executed at  
3 his house and a pair of dark sunglasses and a red  
4 backpack was found.

5 His prior record consists of a 2005  
6 ABHAN, 2006 failure to stop for a blue light, 2009  
7 trespassing, 2012 assault third, strong-armed  
8 robbery and shoplifting, and as mentioned early the  
9 State is requesting for 20 years, Your Honor.

10 THE COURT: Sir, you've heard the  
11 facts. Is that what you did?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: I find there is a  
14 substantial factual basis for your plea, your  
15 decision to plead guilty has been freely,  
16 voluntarily, knowingly and intelligently made. You  
17 have indicated to the Court you've had the advice  
18 of counsel, a competent attorney, with whom you  
19 told the Court you were satisfied.

20 I hereby accept your plea of guilty of  
21 entering a financial institution with the intent to  
22 steal, possession of a firearm during the  
23 commission of a violent crime, armed robbery,  
24 forgery involving the counterfeit bills with  
25 Walmart money card, pleading guilty to escape and

1 to forgery with the \$100 reserve note.

2 MS. ANDREWS: Your Honor, just for the  
3 record, and to reiterate, the escape was reduced to  
4 resisting arrest.

5 THE COURT: I was just going back over  
6 to do that. I was reading the indictments, because  
7 when you have two forgeries -- I just want to make  
8 sure that the record is abundantly clear what you  
9 are pleading to so I was reading off of the  
10 indictment instead of the sentencing sheet. So it  
11 is not on 2014-GS-10-4577, an escape, that you are  
12 pleading to. It is a resisting arrest.

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Are you pleading guilty to  
15 all of those offenses because you, in fact, are  
16 guilty?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: I find there is a  
19 substantial factual basis for your plea. Your  
20 decision to plead guilty has been freely,  
21 voluntarily, knowingly, and intelligently made.  
22 You've indicated to the court you've had the advice  
23 of counsel, Ms. Andrews, with whom you told the  
24 Court you are satisfied. You have entered a plea  
25 of guilty on all six charges.

1                   Ms. Andrews, I'm happy to hear from you  
2 regarding sentence.

3                   MS. ANDREWS: Thank you, Your Honor.

4                   THE COURT: Was he on probation when  
5 these were occurring?

6                   MR. WARING: Yes, Your Honor, I believe  
7 he was.

8                   THE COURT: Do we have a probation  
9 matter, Ms. Holmes?

10                  MS. HOLMES: I'm checking right now,  
11 Your Honor.

12                  THE COURT: Ms. Andrews, do you know --  
13 you've indicated that you know, but time-wise it  
14 appears that he should have been.

15                  He received probation for the 2012  
16 strong armed robbery; is that correct, Mr Waring?

17                  MR. WARING: Yes.

18                  MS. ANDREWS: Your Honor, it was my  
19 understanding that he was not on probation.

20                  THE COURT: Okay.

21                  MS. HOLMES: Is it Octavious?

22                  THE COURT: Yes, ma'am.

23                  MS. HOLMES: He's not on probation  
24 right now. During that time period, do you want to  
25 know if he was on probation?

1 THE COURT: Well, tell me -- he was on  
2 five years probation and sentenced to five years  
3 probation in 2012. Tell me what they --

4 MS. HOLMES: What date?

5 THE COURT: That math doesn't add up,  
6 and I don't presume to understand DOC or probation  
7 math, but help me out.

8 MS. HOLMES: Yes. It appears that Mr.  
9 Carr was revoked on his probation for the common  
10 law strong-armed robbery. He was revoked on -- he  
11 was revoked July 9, 2012, by Judge McDonald.

12 THE COURT: Revoked in full?

13 MS. HOLMES: Yes, Your Honor. Revoked  
14 two years --

15 THE COURT: Well, he was sentenced to  
16 five years probation.

17 MS. HOLMES: Well, she just revoked two  
18 years and terminated him.

19 THE COURT: Okay. So currently no  
20 obligations with probation?

21 MS. HOLMES: No, Your Honor.

22 THE COURT: Do you show a release date?

23 MS. HOLMES: I can check. I have to go  
24 into a different system for that. He was released  
25 July 1st of 2013.

1 THE COURT: All right. Thank you.

2 Ms. Andrews.

3 MS. ANDREWS: Thank you, Your Honor.

4 Mr. Carr is 26 years old. He's originally from  
5 Jacksonville, Florida. He was adopted around age  
6 six by his mother's friend who would frequently  
7 baby-sit him. They moved together from  
8 Jacksonville to Charleston when he was nine years  
9 old when his stepdad wanted to relocate and be  
10 closer to his family.

11 Mr. Carr was in school until about the  
12 tenth grade. He said around that time he moved to  
13 a bad neighborhood. He was living on James Island  
14 at the time and he fell into the wrong crowd. He  
15 said that the people in his neighborhood became  
16 like his family, and he had never really had family  
17 before, that they became friends to him when he'd  
18 never really had friends before.

19 Since he's been incarcerated, his  
20 mother has relocated from Charleston back home to  
21 where she's originally from in Jacksonville. He's  
22 talked about moving back to Florida whenever he's  
23 released, and he understands that his mom will  
24 probably be much older at that time. He has been  
25 working on his relationship with her.

1           He's accepting responsibility for what  
2 he's done by pleading guilty today. He didn't want  
3 to put the victims thorough a trial. Your Honor,  
4 he understands that his time in prison is what he  
5 makes of it. He's discussed wanting to get his  
6 GED. He's discussed with me seeking programs  
7 within SCDC that can teach him some sort of trade  
8 or something that can help him establish some sort  
9 of security so when he gets out he will be able to  
10 reintegrate.

11           He has a child who is about six years  
12 old now, and he understands that when he gets out  
13 he will have missed the adolescence of his child,  
14 but I think what is more important than anything  
15 else is he realizes that that's a result of actions  
16 that he has taken and he accepts responsibility for  
17 that and we talked a lot about that.

18           He has been in jail for 335 days. Your  
19 Honor, I would respectfully ask that you consider a  
20 sentence of 12 years for him for everything to run  
21 concurrent. I wanted to also let the Court be made  
22 aware that he was sentenced to 16 months on  
23 March 23rd of 2015, for a federal forgery. It's a  
24 charge that I initially had that the feds picked  
25 up, and he was given 16 months on 3/23. And I

1 would please ask that any sentence that you impose  
2 to run concurrent with his federal time.

3 THE COURT: The 335 days does not  
4 contemplate that sentence?

5 MS. ANDREWS: I do not believe that --  
6 I'm not certain of that, Your Honor, actually. He  
7 has done 335 days on the charges that I represent  
8 him on, but separately he received 16 months on  
9 March 23rd for a totally separate charge. I'm not  
10 sure if they gave him credit for 335 days.

11 THE COURT: Let me ask it this way:  
12 Will he go to federal prison?

13 MS. ANDREWS: It's my understanding  
14 that he will immediately go to federal prison once  
15 his charges here have been resolved.

16 THE COURT: These have been holding him  
17 so the sentence has been told until this sentence  
18 is imposed. So what you're asking me is then to go  
19 ahead and start from today imposing his sentence so  
20 that he gets concurrent time while he's in federal  
21 custody.

22 MS. ANDREWS: Yes, Your Honor.

23 THE COURT: Any objection to that,  
24 Mr. Waring?

25 MR. WARING: No, Your Honor.

1                   THE COURT: I don't know that we can  
2 prevent that from happening regardless, but I just  
3 wanted to make sure that I'm giving him the time  
4 that he would be credited.

5                   Mr. Carr, what do you want to tell me?

6                   THE DEFENDANT: Good morning, Your  
7 Honor. I would just like to say I made a lot of  
8 dumb mistakes in my past, and I just apologize to  
9 the court and to everybody for my dumb mistakes.  
10 And I would like to ask that you just please show  
11 some leniency on me. This person I've been for the  
12 past couple of years is not me, and I just --

13                   THE COURT: Mr. Carr, you've been in  
14 general sessions since 2005.

15                   THE DEFENDANT: I know. Just been  
16 going through some things, like family matters and  
17 stuff just -- just stuff that I could have avoided,  
18 but just let my anger get to me and not having my  
19 family.

20                   THE COURT: Mr. Carr, we all have  
21 issues.

22                   THE DEFENDANT: Yes, ma'am.

23                   THE COURT: Life was never promised to  
24 any of us to be easy, was it?

25                   THE DEFENDANT: No.

1                   THE COURT: And it sounds like you've  
2 had some difficult times, but you've been given  
3 chance after chance.

4                   Why was he revoked, Ms. Holmes?

5                   MS. HOLMES: He stopped reporting to  
6 the probation office, Your Honor.

7                   THE COURT: He stopped reporting.

8                   MS. HOLMES: Yes, Your Honor.

9                   THE COURT: All right. Mr. Carr, at  
10 what point do you feel that you keep getting  
11 entitled to all these extra chances?

12                   THE DEFENDANT: Just -- I just ask that  
13 you show leniency, Your Honor.

14                   THE COURT: I'm sorry?

15                   THE WITNESS: I just ask that you show  
16 leniency on me. I know I messed up. I'm just  
17 accepting my --

18                   THE COURT: And I appreciate that and I  
19 will take that into consideration, because you're  
20 facing about 100 years in front of me today, and  
21 then the additional 16 months. So about 101 years.  
22 Do you understand that's -- so anything less than  
23 100 years would be lenient for you.

24                   Tell me what -- you were just on a  
25 one-man crime spree for about six months, weren't

1 you?

2 THE DEFENDANT: Six months?

3 THE COURT: From December of 2013 to  
4 May of 2014?

5 THE DEFENDANT: Oh, with the forgeries?

6 THE COURT: The forgeries and the bank  
7 robbery and the armed robbery at the Hampton?

8 THE DEFENDANT: I guess I was with the  
9 wrong crowd at the time.

10 THE COURT: Mr. Waring, I heard the  
11 facts to be that he was by himself each time?

12 MR. WARING: Your Honor, with the  
13 exception of maybe one of the counterfeit check  
14 incidents, he was by himself each incident.

15 THE COURT: So, Mr. Carr, I don't buy  
16 the wrong crowd issue.

17 THE DEFENDANT: Ma'am?

18 THE COURT: I don't buy that wrong  
19 crowd issue. I might have bought it in 2005 if you  
20 had appeared in front of me on your ABHAN, that  
21 would have been -- your argument would have had  
22 more strength at that time.

23 THE DEFENDANT: It's just being on  
24 drugs and stuff, too.

25 THE COURT: How long have you been on

1 drugs?

2 THE DEFENDANT: I've been on drugs for  
3 like awhile. I never really got treated. Probably  
4 like, probably 2008 --

5 THE COURT: Did you have a drug problem  
6 when you were on probation?

7 THE DEFENDANT: I never really -- I  
8 never really had a piss test, but I did have a drug  
9 problem.

10 THE COURT: Did you tell your probation  
11 officer you needed some help?

12 THE DEFENDANT: No, ma'am.

13 THE COURT: Okay. Did you tell anybody  
14 that you needed help?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: So this is the first time  
17 you've told anybody that you needed help with your  
18 drug problem?

19 (Nodding head)

20 THE COURT: Is that a yes?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Anything further, Ms.

23 Andrews?

24 Do you happen to have the federal case  
25 number so I can write it on the sheet so that it

1 makes it clear?

2 MS. ANDREWS: I do not, Your Honor.

3 Can I --

4 THE COURT: Do you know the date he was  
5 sentenced?

6 MS. ANDREWS: Yes, Your Honor. It was  
7 March 23rd of this year.

8 THE COURT: Thank you. It is the order  
9 of the Court on 2014-GS-10-4577, 2014-GS-10-5987,  
10 ]2014-GS-10-2997, and 2014-GS-10-4589 that you be  
11 committed to the State Department of Corrections  
12 for a term of 335 days. I give you credit for  
13 335 days.

14 It's the order of the Court on  
15 2014-GS-10-6220 and 2014-GS-10-5986, that you be  
16 committed to the State Department of Corrections  
17 for a term of 25 years. I'll give you credit for  
18 335 days.

19 The two indictments are to run  
20 concurrent and to the federal case that you were  
21 sentenced on March 23rd of 2015.

22 Good luck to you, sir. I will order  
23 ATU.

24 MR. WARING: Thank you, Your Honor.

25 MS. ANDREWS: Thank you.

1 (These proceedings were concluded at  
2 10:23 a.m.)  
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CERTIFICATE OF REPORTER

I, Carol Denise Lauder, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

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

Witness my hand, I have hereunto affixed my official seal this 2nd day of January, 2016 at Charleston, Charleston County, South Carolina.

---

Carol Denise Lauder  
Registered Professional  
Reporter, CP  
My Commission expires  
August 2, 2017

FORM 5

STATE OF SOUTH CAROLINA )  
 )  
 County of Charleston )  
 )  
Octavious Leon Carr )  
 Full name and prison number (if any) of Applicant )  
 )  
 v. )  
 )  
 State of South Carolina )  
 )  
 )  
 )

2015 - CP - 10 - 6026  
 IN THE COURT OF COMMON PLEAS

APPLICATION FOR  
 POST-CONVICTION RELIEF

FILED  
 2015 NOV - 6 PM 12:42  
 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 Lee Correctional Institution  
990 Wisacky Hwy. / Bishopville, S.C. 29010
2. Name and location of Court which imposed sentence Court of General Sessions - County of Charleston
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) Forgery (2014-GS-10-2997); Resisting Arrest (2014-GS-
  - (b) 10-4577); Forgery (2014-GS-10-4589); Armed Robbery (2014-

(c) GS-10-59861; Possession of a Weapon During the Commission

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

(a) April 30, 2015

(b) Received a total of 25 year's

(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?

~~Motion to reconsider~~ 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 figured my attorney would file it

(b) I also thought it wouldn't help being that i plead guilty

4. <sup>32</sup>The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: continued

(d) of a violent crime (2014-GS-10-5987); Entering Bank with Intent to Steal (2014-GS-10-6220).

(c) ~~05-16-5986 Possession of a Weapon During Commission of a Violent Crime~~

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

- (a) Ineffective assistance of counsel
- (b) Violation of constitutional rights
- (c) \_\_\_\_\_

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

- (a) Decisions made by trial counsel prompted applicant to
- (b) enter an guilty plea involuntarily.
- (c) \_\_\_\_\_

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

- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

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. Motion to reconsider sentence
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
  - i. General Sessions County of Charleston
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

(c) the disposition thereof:

- i. Denied
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. May 12, 2015
- 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) N/A  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_

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

- (a) your arraignment and plea? Annie E. Andrews  
 (b) your trial, if any? \_\_\_\_\_  
 (c) your sentencing? Annie E. Andrews  
 (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?  
Annie E. Andrews

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. Annie E. Andrews/O.T. Wallace County office  
building 101 Meeting st, 5<sup>th</sup> floor Charleston  
 ii. S.C., 29401-  
 iii. \_\_\_\_\_  
 (b) the proceedings at which each such attorney represented you:  
 i. Plea Hearing  
 ii. Sentencing  
 iii. \_\_\_\_\_

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

The applicant seeks that his sentence be reversed  
and remanded for new trial; vacated with prejudice  
or any relief this court deems fit.

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

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

STATE OF SOUTH CAROLINA )  
  )  
County of Charleston      )

VERIFICATION

I, Octavious L. Carr, 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.

Octavious Carr

SWORN to and subscribed before me this 21  
day of Oct, 2015.

Delma Surges (L.S.)  
Notary Public

My Commission Expires: 11-4-2015

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

I, Octavious L. Cowl, 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.

Octavious Cowl  
*Applicant*

SWORN or affirmed to and subscribed before me this  
21 day of Oct, 2015.

Debra Sipes  
*Notary Public*

My Commission Expires: 11-4-2015

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
	)	
Octavious Leon Carr, #313818,	)	2015-CP-10-6026
	)	
Applicant,	)	
	)	
v.	)	<b>RETURN</b>
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____)		

In response to the post-conviction relief application filed on November 6, 2015, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Charleston County Clerk of Court’s orders of commitment. The Applicant was indicted by the June, August, and October 2014 terms of the Charleston County Grand Jury for two (2) counts of forgery, one (1) count of Escape, one (1) count of Armed Robbery, one (1) count of Possession of a Firearm during the Commission of a Violent Crime, and one (1) count of Entering a Financial Institution With the Intent to Steal (2011-GS-10-2997; -4589, -4577, -5986, -5987, -6220). Annie E. Andrews, Esquire, represented him. On April 30, 2015, the Applicant plead guilty as indicted to all charges except one (1) count of Escape, in which he waived presentment to the Grand Jury. The applicant subsequently plead guilty to Resisting Arrest. The Honorable Kristi Lea Harrington sentenced the Applicant to confinement for three hundred thirty-five (335) days for each charge of Forgery, Resisting Arrest, and Possession of a Firearm During the Commission of a Violent Crime.

The Applicant was sentenced to twenty-five (25) years for each charge of Armed Robbery and Entering a Financial Institution With the Intent to Steal. The sentences run concurrently. The Applicant did not appeal his conviction or sentence.

## II.

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

1. "Ineffective Assistance of Counsel"
2. "Violation of Constitutional Rights"
  - a. "Decisions made by trial counsel prompted applicant to enter an (sic) guilty plea involuntarily"

For the purpose of this Return, the Respondent incorporates the Clerk of Court records, and the South Carolina Department of Corrections' records, the application, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## III.

Respondent construes Applicant's allegations as alleging ineffective assistance of counsel. The Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. The Respondent also asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

A two-pronged test is used 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 v. State, 300 S.C. at 117, 386 S.E.2d at 625, (citing Strickland v. Washington). 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 v. Washington. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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. Id. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). In other words, where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

#### IV.

The Applicant also alleges his guilty plea was involuntary. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the Applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues,

it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The transcript reflects that the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, [an Applicant's] right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621 (1977). Statements made during a guilty plea should be considered conclusively, unless an [Applicant] presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 347 (4<sup>th</sup> Cir. 1975) overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir.1985). This Court finds that the Applicant presented no reasons to show that he should be allowed to depart from the truth of the statements he made during his guilty plea hearing.

An Applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to this claim, the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

V.

V.

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

V.

WHEREFORE, the Respondent requests an evidentiary hearing solely for the purpose of determining whether the Applicant's trial counsel was ineffective and whether the Applicant's appellate counsel was ineffective.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

JOHANNA C. VALENZUELA  
Senior Assistant Deputy Attorney General

J. RUTLEDGE JOHNSON  
Assistant Deputy Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737

June 7, 2016



## E X A M I N A T I O N S

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
OCTAVIOUS L. CARR	4	9	17	18

1 (September 12, 2016.)

2 THE COURT: All right. Mr. Johnson, you may  
3 call your next case.

4 MR. JOHNSON: Octavious Carr versus State of  
5 South Carolina.

6 THE COURT: All right. The next case to be  
7 presented is Mr. Octavious L. Carr, 2015-CP-10-6026. Mr.  
8 Carr is present in the courtroom represented by his  
9 attorney, Mr. Christopher Murphy. The State is  
10 represented by Mr. Rutledge Johnson.

11 Mr. Johnson, you may proceed.

12 MR. JOHNSON: May it please the Court, Your  
13 Honor: Mr. Carr was indicted by the June, August, and  
14 October 2014 terms of the Charleston County grand jury  
15 for two counts of forgery, one count of escape, one count  
16 of armed robbery, one count of possession of a firearm  
17 during the comission of a violent crime, and one count of  
18 entering a financial institution with intent to steal.

19 Annie Andrews, Esquire represented him. On  
20 April 30th, 2015, he pled guilty as indicted to all the  
21 charges except for a count of escape, which he waived  
22 presentment to the grand jury, and he subsequently pled  
23 to resisting arrest. The Honorable Kristi Lea Harrington  
24 sentenced him to confinement for 335 days for each charge  
25 of forgery, resisting arrest, and possession of a

## OCTAVIOUS L. CARR - DIRECT EXAMINATION

1 firearm, and then he was sentenced to 25 years for armed  
2 robbery and entering a financial institution with intent  
3 to steal. They all run concurrently.

4 He did not appeal this conviction for  
5 sentence; however, he did file a timely PCR application  
6 November 6, 2015, and the State filed its return June 7,  
7 2016 and he is represented by Mr. Christopher Murphy.

8 THE COURT: All right. Mr. Murphy, you may  
9 proceed.

10 MR. MURPHY: Yes, Your Honor. We would call  
11 Mr. Carr to the stand.

12 OCTAVIOUS L. CARR,  
13 having been first duly sworn,  
14 was examined and testified as follows:

15 DIRECT EXAMINATION

16 THE WITNESS: Carr, Octavious Leon Carr.  
17 C-a-r-r.

18 THE COURT: Thank you, sir.

19 BY MR. MURPHY:

20 Q. Thank you, Mr. Carr. You recall pleading guilty  
21 in Charleston County for the charges you were sentenced  
22 to, correct?

23 A. Yes, sir.

24 Q. And you were represented by Ms. Andrews?

25 A. Yes, sir.

1           Q. And if you could explain to the Court how many  
2 times did up meet with Ms. Andrews to discuss the charges  
3 against you?

4           A. I would say maybe, like, three to four times.

5           Q. Where did those meetings take place?

6           A. At the Charleston County Detention Center.

7           Q. So you did not make bond pending your plea,  
8 correct?

9           A. Yes, sir.

10          Q. And how long did these meetings last?

11          A. Maybe ten, fifteen minutes.

12          Q. And when you had these meetings, did you have the  
13 glass partition between you or were they done in the  
14 conference room?

15          A. With the glass partition.

16          Q. And did you actually go over the evidence against  
17 you with her?

18          A. Yes, yes, sir.

19          Q. Okay. Did you understand the nature of the  
20 charges, the elements that they had to prove for each  
21 charge?

22          A. Yes, sir.

23          Q. And did you understand the possible sentence for  
24 each charge?

25          A. Yes, sir.

1 Q. Now, when you pled guilty, prior to -- before you  
2 pled guilty, did you meet with your counsel beforehand to  
3 discuss the guilty plea?

4 A. It was, like, a day before. At the end of the  
5 next day, I had to go to court.

6 Q. When you met with her that day before, how long  
7 was that meeting?

8 A. Maybe the same, probably ten, fifteen minutes.

9 Q. Did you discuss the sentence you thought you were  
10 going to get or any negotiated pleas or anything like  
11 that?

12 A. Yes, sir.

13 Q. And what was the substance of the discussions that  
14 you had?

15 A. It was going to -- it was going to be a negotiated  
16 plea, but it wasn't really mandatory that I was going  
17 to get the 15 year sentence.

18 Q. And did you -- when you said it wasn't mandatory  
19 that you get the 15 years, what was your understanding?

20 A. That I can be getting more than 15 years even  
21 if -- it was going to be negotiated, but even if, like,  
22 if it wasn't negotiated, I was going to be getting more  
23 at one time.

24 Q. When you use the term negotiated plea, could you  
25 tell the Court what you understand that means?

1           A. That's like -- signing for a negotiated plea, you  
2 sign for the plea, like, that they're offering that  
3 you're going to possibly get.

4           Q. Okay. And in terms of a sentence, do you have any  
5 understanding what your sentence would be under a  
6 negotiated plea?

7           A. No, sir.

8           Q. Did you have an understanding about the difference  
9 between recommendations or a negotiated plea?

10          A. Just negotiated not recommendation.

11          Q. Did you have any understanding about what your  
12 attorney was going to ask for in terms of sentencing?

13          A. Yes, yes, sir.

14          Q. What was that?

15          A. It was going to be for 12 years.

16          Q. What was your understanding about that 12-year  
17 request from your attorney?

18          A. It wasn't possibly going to be a chance that I  
19 would get it, but it was just trying.

20          Q. Okay. So you understood she was going to ask for  
21 12 years, but you could have gotten more, correct?

22          A. Yes, sir.

23          Q. And then ultimately you made a decision to plead  
24 guilty?

25          A. Yes, sir.

1 Q. Okay. Tell the Court why you made that -- let me  
2 ask you this: When you made that decision, did you feel  
3 pressured to make that decision at all?

4 A. Somewhat, but, like, I felt a little pressure  
5 because I didn't want to go to trial because I know I was  
6 guilty of certain of -- one of the charges, but I knew if  
7 I went to trial I, would have got slammed, so I just --

8 Q. So you were trying to reduce your sentence, is why  
9 you pled guilty rather than go to trial?

10 A. Yes, sir.

11 Q. All right. Now, you ultimately -- is that the  
12 reason why you decided to plead guilty rather than go to  
13 trial?

14 A. Yes, sir.

15 Q. And then when you went before the Court, did you  
16 have any issues with your attorney at that point?

17 A. No, sir.

18 Q. Okay. And you alleged your plea was involuntary,  
19 or your attorney made some errors in representing you.  
20 Could you tell us what errors you believe your attorney  
21 made.

22 A. I barely would see her; maybe like three, three --  
23 out of the year I was in the county, like, every three,  
24 three to four months saw her, and then I felt like I was  
25 rushed, I was rushed into court because she came to see

1 me that Wednesday, and I went to court that Thursday, so  
2 I was -- it was -- just so much stuff was happening, just  
3 was moving fast, like, I don't really -- I didn't really  
4 feel like I got what -- I don't know.

5 Q. To summarize, would it be fair to say you don't  
6 feel like you were fully explained the nature of the  
7 charges and the defenses?

8 A. Yes, sir.

9 Q. Is there any other errors that you believe your  
10 attorney committed?

11 A. Just -- putting pressure on me, a lot of pressure  
12 on me, saying that it wouldn't be best to go in front of  
13 this open plea but -- I don't know.

14 Q. All right.

15 MR. MURPHY: Thank you, Your Honor. That's  
16 all we have.

17 THE COURT: Mr. Johnson?

18 MR. JOHNSON: May it please the Court, Your  
19 Honor.

20 CROSS-EXAMINATION

21 BY MR. JOHNSON:

22 Q. Mr. Carr, are you saying your understanding of  
23 this negotiated plead is that you were going to get 12  
24 years, correct?

25 A. Yes, sir.

1 Q. And you're aware that your attorney asked for a  
2 12-year sentence, correct?

3 A. Yes, sir.

4 Q. And that the judge was not bound by that?

5 A. Yes, sir.

6 Q. So Judge Harrington could sentence you up to 30  
7 years, correct?

8 A. Yes.

9 Q. And you knew that? Is that a yes?

10 A. Yes, sir.

11 Q. And at the guilty plea, Judge Harrington went over  
12 all of your rights, correct?

13 A. Yes, sir.

14 Q. Your right to a trial?

15 A. Yes, sir.

16 Q. Your right to confront witnesses?

17 A. Yes, sir.

18 Q. Your right to remain silent?

19 A. Yes, sir.

20 Q. Your right to present a defense, correct?

21 A. Yes, sir.

22 Q. And you waived all those, didn't you?

23 A. Yes, sir.

24 Q. And you actually said you were pleading guilty  
25 because you are guilty in this case?

1 A. Yes, sir, being scared.

2 Q. But you were still guilty, correct?

3 A. Yes, sir.

4 Q. And it was your decision to plead guilty, right?

5 A. Yes, sir.

6 Q. Nobody forced you or threatened you to get you to  
7 plead guilty, did they?

8 A. Somewhat.

9 Q. Are you aware that at the plea you said that  
10 nobody threatened, promised, or coerced you into pleading  
11 guilty, correct?

12 A. I was just nervous at the time, sir.

13 Q. But nobody threatened you, correct?

14 A. Nobody threatened me.

15 Q. And you had no complaints about Ms. Andrews that  
16 day, did you?

17 A. No, I didn't have no complaints at the time, but I  
18 did in my mind because I know I wasn't supposed to get  
19 all that time. Well, I feel like I wasn't supposed to  
20 get all the time if we would have talked more, if we  
21 would have talked more.

22 Q. But you never stopped the judge and said, Your  
23 Honor, I'm not supposed to get this much time. I do have  
24 complaints about Ms. Andrews.

25 You never said that, did you?

## OCTAVIOUS L. CARR - CROSS-EXAMINATION

1 A. It was too late after I got the time, sir.

2 Q. Sir, you were able to speak to the Court, and you  
3 apologized for your actions, did you not?

4 A. Yes, sir.

5 Q. At that point you could have said something, could  
6 you not?

7 A. It was too late. She already gave me the 25  
8 years, but I did apologize to the Court, but it was  
9 already too late. I already had got the time.

10 Q. But you just testified that you knew you could get  
11 up to 30.

12 A. I was hoping I could have got the 12 that  
13 Ms. Andrews said she was going to try to get me.

14 Q. And she asked for it, didn't she?

15 A. Yes, sir.

16 MR. JOHNSON: No further questions, Your  
17 Honor.

18 MR. MURPHY: Nothing further, Your Honor.

19 THE COURT: Do you remember when Judge  
20 Harrington went over what the potential sentences could  
21 possibly be?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: And do you remember her saying  
24 that you could get as much as 30 years?

25 THE WITNESS: Yes, ma'am.

OCTAVIOUS L. CARR - CROSS-EXAMINATION

1 THE COURT: And do you remember her  
2 explaining to you that armed robbery is a violent crime?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: And do you remember her  
5 explaining that after this conviction, if you had a  
6 further conviction, you might be looking at life without  
7 parole?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: And the sentence you received,  
10 was, with all the sentences combined together, 25 years;  
11 is that correct?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: And that's really what you're  
14 concerned about, the length of the sentence?

15 THE WITNESS: Yes, ma'am. Can I --

16 THE COURT: Certainly.

17 THE WITNESS: Because the solicitor, he was  
18 offering 20 years, so basically, if I would have known  
19 what I know now, it's too late obviously, I would have  
20 took the 20 years instead of getting the extra five, but  
21 the solicitor was offering 20 years, so I figured -- and  
22 then they negotiated 15, and Ms. Andrews was trying to  
23 get me 12, so I figured I would --

24 THE COURT: You thought the 20 would be the  
25 outside.

OCTAVIOUS L. CARR - CROSS-EXAMINATION

1 THE WITNESS: Yes. Yes, ma'am.

2 THE COURT: And I see this, of course, in  
3 your file, and I see Mr. Waring, who was the attorney for  
4 the State, saying, The State is requesting 20 years.

5 That was the outside, as you saw it, correct.

6 THE WITNESS: Yes, ma'am.

7 THE COURT: But then I see Judge Harrington  
8 saying, I do not have to go along with it. I can  
9 sentence you to an armed robbery from ten to thirty  
10 years. Do you understand that?

11 And you said, Yes, ma'am.

12 And then she explained that she could  
13 sentence you for the possession of a weapon up to five  
14 years, and she said, Do you understand that? And you  
15 said yes, sir -- yes, ma'am.

16 Do you remember that?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: And then she further said, I can  
19 sentence you on entering the bank with intention to steal  
20 up to 30 years; do you understand that?

21 And what did you say?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: All right. And then she talked  
24 about the resisting arrest and the two forgery counts and  
25 the potential of a fine on the resisting arrest and the

1 forgery counts. This was counterfeit money, I think.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Up to five years. And, of  
4 course, you indicated you understood that.

5 THE WITNESS: Yes, ma'am.

6 THE COURT: And as I understand the record  
7 here, this was a series of charges that began on April  
8 30th -- well, actually began on December 22 of 2013 with  
9 the attempt to pass a \$100 counterfeit bill; is that  
10 correct?

11 THE WITNESS: Yes, ma'am.

12 THE COURT: And then on April 30th of 2014,  
13 an attempt to use some counterfeit bills at a different  
14 Walmart; is that correct?

15 THE WITNESS: Yes, ma'am.

16 THE COURT: And then on May the 5th, 2014, an  
17 officer attempted to detain you, and you jumped out of a  
18 vehicle and fled. The officer had some outstanding  
19 warrants and recognized you. Do you recall that?

20 THE WITNESS: Yes, ma'am.

21 THE COURT: And then on May the 14th, 2014,  
22 do you recall entering the Hanahan A&M and pointing a gun  
23 at the clerk and asking for money while you were wearing  
24 a black hooded sweatshirt and sunglasses and obtaining  
25 \$300? Do you recall that?

## OCTAVIOUS L. CARR - CROSS-EXAMINATION

1 THE WITNESS: That charge right there was  
2 basically -- he was -- the guy at the hotel, he was  
3 saying the person that did this bank robbery looks like  
4 the person that did this -- that did that robbery on him.

5 THE COURT: So this is not you?

6 THE WITNESS: That's not me.

7 THE COURT: All right, sir. And then on May  
8 14, 2014, there's a video of you entering the First  
9 Citizens Bank and handing the teller a note saying you  
10 had a gun, you want money, but no ink money.

11 Do you recall that?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: That was you?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: All right. And I understand your  
16 prior record, you have an ABHAN, assault and battery of a  
17 high and aggravated nature, 2005; am I correct?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: And then a 2006 failure to stop  
20 for a blue light; is that correct?

21 THE WITNESS: I was incarcerated in 2006.

22 THE COURT: So that is not you? That was not  
23 correct?

24 THE WITNESS: The failure to stop for a blue  
25 light, that happened in --

1 THE COURT: 2009?

2 THE WITNESS: 2009?

3 THE COURT: I got trespass in 2009. I got a  
4 2006 failure to stop for a blue light, but you say you  
5 were incarcerated?

6 THE WITNESS: I was incarcerated for all of  
7 2006.

8 THE COURT: Did you have a failure to stop  
9 for a blue light?

10 THE WITNESS: Yes, I had one.

11 THE COURT: But not at the time of 2006.

12 THE WITNESS: No, ma'am.

13 THE COURT: And then 2012, assault, burg,  
14 strong-arm robbery, and shoplifting, do you recall that?

15 THE WITNESS: Yes, ma'am.

16 THE COURT: All right, sir.

17 Any further questions by either counsel?

18 MR. MURPHY: I would have one, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. MURPHY:

21 Q. I would have one, Your Honor. Mr. Carr, you said  
22 the Court was asking you about some charges where you  
23 entered -- it was a hotel with a mask and sunglasses.  
24 You said that wasn't you?

25 A. Yes, sir.

1 Q. Did you tell your attorney that wasn't you?

2 A. I told her, like, they didn't have -- there was no  
3 evidence, so the person that worked at that hotel, I  
4 guess he said he saw it on Live Five News and pointed me  
5 out that the person that did this bank robbery looks like  
6 the person that did this robbery.

7 I was telling Miss Annie that I'm not guilty for  
8 that, but she was saying if I went to trial for this  
9 hotel robbery that I would have had to go for this bank  
10 robbery that I know I was guilty for, so I just pled  
11 guilty anyway.

12 Q. And when the State asked you whether or not you  
13 were forced or threatened to plea, you answered somewhat.  
14 Can you explain? Was that part of why you answered  
15 somewhat?

16 A. Yes, sir, because I didn't do that hotel robbery.  
17 The guy just said that the person that did the bank  
18 robbery looks like the person that did this robbery, and  
19 it just put me in a bind with a whole other robbery that  
20 I didn't commit.

21 MR. MURPHY: Thank you, Your Honor. That's  
22 all I have.

23 MR. JOHNSON: Brief followup, Your Honor?

24 THE COURT: Yes, sir.

25 RE-CROSS-EXAMINATION

1 BY MR. JOHNSON:

2 Q. Mr. Carr, you said you didn't do this hotel  
3 robbery, but you never stopped the judge once the facts  
4 were read and say, Your Honor, that wasn't me, did you?

5 A. I was nervous at the time, sir, and it's all my  
6 fault that I didn't stop it then, but I was just trying  
7 to -- just hoping that I would have got the best out of  
8 the situation, which I didn't, so I wish at that time I  
9 would have stopped the judge, but I messed up.

10 Q. But you were nervous, right?

11 A. Yes, sir.

12 Q. But this is not your first rodeo in the criminal  
13 justice system, is it?

14 A. No, sir.

15 Q. You've pled before, have you not?

16 A. Yes, sir.

17 Q. So you know you could have stopped the judge and  
18 said, It's not me.

19 A. I never really been in a situation like that, that  
20 I wasn't guilty that they trying to put a whole robbery  
21 on me. I was never in a situation like that before.

22 Q. But the fact of the matter is you had an  
23 opportunity to tell the judge it was not you, and you  
24 forewent that opportunity, correct?

25 A. Yes, sir.

OCTAVIOUS L. CARR - RE-CROSS-EXAMINATION

1 MR. JOHNSON: No further questions, Your  
2 Honor.

3 MR. MURPHY: Nothing further, Your Honor.

4 THE COURT: You may come down, Mr. Carr.

5 All right. In the matter of Octavious Leon  
6 Carr, application for post-conviction relief, the Court  
7 will deny the application for the reason that it is  
8 evident from the testimony that the potential sentences  
9 were fully explained. Mr. Carr does raise the issue that  
10 some of the recitations made about his record,  
11 specifically his participation in one robbery was not  
12 correct, that he was not guilty of that particular  
13 offense and he indicates he was nervous when that matter  
14 was brought forward and he did not speak up for that  
15 reason.

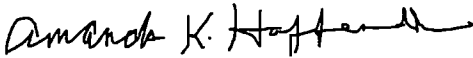
16 And the Court has some sympathy for Mr. Carr  
17 for that; unfortunately, even if you put that matter to  
18 the side, there is a good deal of information here of a  
19 series of criminal offenses to which Mr. Carr pled guilty  
20 and a record of previous offenses, all of which was taken  
21 into account by a judge. Mr. Carr is very candid and  
22 honest with the Court. He says that his biggest concern  
23 about the case and the reason he brought his application  
24 is because he felt the sentence is outside of what he  
25 expected to receive, and I understand that and am



I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 12th of September 2016.

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

February 10, 2018



---

Circuit Court Reporter

cc  
AB  
AT  
SOL  
GS

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Octavious León Carr, #313818,

2015-CP-10-6026

Applicant,

ORDER OF DISMISSAL

v.

State of South Carolina,

Respondent.

FILED  
2015 OCT 16 AM 11:13  
CLERK OF COURT  
JULIE J. WELLS

H  
JAT

This matter comes before the Court by way of an Application for Post-Conviction Relief filed November 6, 2015. Respondent made its Return on June 7, 2016. An evidentiary hearing into the matter was convened on September 12, 2016 at the Charleston County Courthouse. Christopher L. Murphy, Esquire represented Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. This Court had before it a copy of the records of the Charleston County Clerk of Court, records from the South Carolina Department of Corrections, the application, the State's Return and the guilty plea transcript.

**PROCEDURAL HISTORY**

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Charleston County Clerk of Court's orders of commitment. The Applicant was indicted by the June, August, and October 2014 terms of the Charleston County Grand Jury for two (2) counts of forgery, one (1) count of Escape, one (1) count of Armed Robbery, one (1) count of Possession of a

At the evidentiary hearing, Applicant testified he met with counsel three to four times at the county detention center for around fifteen to twenty minutes per session. Applicant stated he and counsel reviewed the evidence and that he understood the evidence and the sentence for each charge, Applicant then testified he met with counsel the day before the plea and discussed that the fifteen-year negotiated sentence was not mandatory and that he could receive a higher sentence than that.

**SUMMARY OF TESTIMONY**

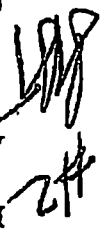
1. "Ineffective Assistance of Counsel"
2. "Violation of Constitutional Rights"
  - a. "Decisions made by trial counsel prompted applicant to enter an (sic) guilty plea involuntarily"

custody unlawfully for the following reasons:

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

Applicant did not appeal his conviction or sentence.

Entering a Financial Institution With the Intent to Steal. The sentences run concurrently. The Applicant was sentenced to twenty-five (25) years for each charge of Armed Robbery and Forgery, Resisting Arrest, and Possession of a Firearm During the Commission of a Violent Crime. sentenced the Applicant to confinement for three hundred thirty-five (335) days for each charge of applicant subsequently plead guilty to Resisting Arrest. The Honorable Kristi Lea Harrington charges except one (1) count of Escape, in which he waived presentment to the Grand Jury. The Andrews, Esquire, represented him. On April 30, 2015, the Applicant plead guilty as indicted to all Institution With the Intent to Steal (2011-GS-10-2997; 4589, 4577, 5986, 5987, 6220). Annie B. Firearm during the Commission of a Violent Crime, and one (1) count of Entering a Financial

#2  


Applicant also stated he did not know what his sentencing would be, but knew counsel was going to ask the plea judge for a sentence of twelve years.

Applicant further testified that he knew he was guilty and did not want to pursue a trial. Applicant admitted he did not have any complaints with counsel at the time of his plea. Applicant's complaints were that he barely saw his attorney and felt rushed into court.

Upon this Court's questioning, Applicant admitted that the plea judge explained the sentences to him and knew that a sentence of Life without Parole was a possibility. Applicant also knew that he would be exposed to a twenty-five year sentence. This Court then thoroughly reviewed the plea transcript with Applicant.

On re-direct examination, Applicant stated he felt somewhat threatened and coerced to plead guilty. On re-cross examination, Applicant admitted he never stopped the proceedings to explain that he felt threatened or coerced to the plea judge.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

**Ineffective Assistance of Counsel**

Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the Applicant to prove his allegations by a preponderance of the evidence."

Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985),

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

#4  
 [Handwritten signature]

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, *citing Strickland*. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

This Court finds the Applicant's regarding counsel's ineffectiveness is not credible.

This Court also finds counsel provided effective assistance of counsel in this case. Counsel advised Applicant of all of the charges and the sentences the charges carried. Counsel negotiated

with the State in Applicant's best interest, namely that counsel negotiated a sentence which avoided a life without parole sentence for Applicant. Applicant testified he pled because counsel was not ready to proceed to trial; this Court does not find this credible as Applicant certainly could have pursued a trial and had Counsel challenge the State's evidence. Applicant admitted nobody threatened him to plead guilty, and there were no promises other than the negotiations to entice him to plead guilty. This Court finds Applicant made the decision to plead guilty on his own accord with the help of learned, prepared counsel. Additionally, this Court finds Applicant made this decision freely and voluntarily without any threats or promises from anyone else. Furthermore, this Court finds that it was ultimately the Applicant's decision to plead guilty.

This Court also finds the guilty plea transcript dispositive of this case as it is a contemporaneous recording of the proceedings. This Court finds the Applicant waived his rights to a jury trial.

*Handwritten initials/signature*

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test — that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland — that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these allegations are denied.

70

**CONCLUSION**

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice. This Court also finds as to all other allegations that Applicant failed to present evidence of such claims and thus, this Court deems them abandoned.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

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

**AND IT IS SO ORDERED!**

  
\_\_\_\_\_  
Jean H. Foal

Presiding Circuit Court Judge  
Ninth Judicial Circuit  
# 2758

Sept 21, 2016  
Columbia, South Carolina

2015-CP-10-6026

#7

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
IN THE COURT OF COMMON PLEAS

OCTAVIOUS LEON CARR, #313818

Applicant,

v.

STATE OF SOUTH CAROLINA,

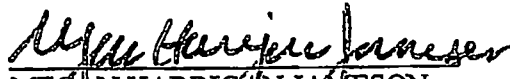
Respondent.

CERTIFICATE OF SERVICE


The undersigned hereby certifies that a true copy of the **Order of Dismissal** has been served upon the applicant by mailing one (1) copy in the United States mail, postage prepaid, addressed to:

Christopher L. Murphy, Esquire  
Murphy Law Offices, LLC  
234 Seven Farms Drive, Suite 128  
Charleston, South Carolina 29492

This 19<sup>th</sup> day of October, 2017.

  
MEGAN HARRIGAN JAMESON  
Attorney for Respondent

SWORN to before me this 19<sup>th</sup> day of October, 2017.

  
Notary Public for South Carolina.  
My Commission Expires: 5/20/2025

TRW20131209700

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2013044385

ARREST WARRANT NUMBER

2013A1010206958

DATE OF ARREST

December 23, 2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury Date: *[Signature]* JULY 03 - 2014

VERDICT

Foreperson of Petit Jury Date:

INDICT

DOCKET NO. 2014GS1002997

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June Term 2014

THE STATE

vs.

OCTAVIOUS LEON CARR

DOB: *[Redacted]*  
B/M

Indictment for

Forgery

FILED

6/9/2014 3:33:35 PM  
JULIE J. ARMSTRONG  
CLERK OF COURT

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHARLESTON )

## INDICTMENT

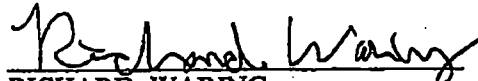
At a Court of General Sessions, convened on June 2, 2014 the Grand Jurors of Charleston County present upon their oath:

**Forgery**

That in Charleston County, South Carolina, on or about December 22, 2013, the Defendant, OCTAVIOUS LEON CARR, with intent to defraud, falsely did make, forge, counterfeit or did cause or procure falsely to be made, forged, or counterfeited a writing, or did utter and publish as true a forged, false or counterfeited writing, or willfully act or assist in any of the foregoing, to wit: defendant did attempt to get change for a counterfeit One Hundred (\$100.00) Federal Reserve Note in US Currency; all in violation of Section 16-13-10 of the South Carolina Code of Laws (1976) as amended.

---

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

  
RICHARD WARING  
ASSISTANT SOLICITOR

TRW20140505013

DOCKET NO. 2014GS1004577

WITNESSES

Charleston City Police Department

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

1407204

COURT OF GENERAL SESSIONS

August Term 2014

ARREST WARRANT NUMBER

2014A1010900280

DATE OF ARREST

May 19, 2014

THE STATE

vs.

ACTION OF GRAND JURY

OCTAVIOUS LEON CARR

DOB: [REDACTED]

B/M

TRUE BILL

Foreperson of Grand Jury

Date:

*Carla D. [Signature]*

AUG 4 - 2014

Indictment for

Escape

VERDICT

Foreperson of Petit Jury

Date:

INDICT

FILED  
8/8/2014 9:15:04 AM  
JULIE J. ARMSTRONG  
CLERK OF COURT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

INDICTMENT

At a Court of General Sessions, convened on August 4, 2014 the Grand Jurors of Charleston County present upon their oath:

Escape

That in Charleston County, South Carolina, on or about May 5, 2014, the Defendant, OCTAVIOUS LEON CARR, while lawfully confined in the custody of the City of Charleston Police Department, unlawfully did escape, attempt to escape or have in his possession tools or weapons which may be used to facilitate an escape, to wit: the defendant, while in custody, did escape through the driver's side passenger door of the police vehicle; all in violation of Section 24-13-410, Code of Laws of South Carolina (1976, as amended).

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

  
RICHARD WARING  
ASSISTANT SOLICITOR

TRW20140505014

DOCKET NO. 2014GS1004589

WITNESSES

Charleston City Police Department

The State of South Carolina  
County of Charleston

AGENCY CASE NUMBER

1406878

COURT OF GENERAL SESSIONS

August Term 2014

ARREST WARRANT NUMBER

2014A1010900281

DATE OF ARREST

May 19, 2014

THE STATE

vs.

ACTION OF GRAND JURY

OCTAVIOUS LEON CARR

DOB: [REDACTED]  
B/M

TRUE BILL

Foreperson of Grand Jury  
Date: *Amelia White* AUG 4 - 2014

Indictment for  
Forgery

VERDICT

Foreperson of Petit Jury Date:

INDICT

FILED

8/8/2014 9:15:04 AM  
JULIE J. ARMSTRONG  
CLERK OF COURT

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHARLESTON    )

INDICTMENT

At a Court of General Sessions, convened on August 4, 2014 the Grand Jurors of Charleston County present upon their oath:

Forgery

That in Charleston County, South Carolina, on or about April 30, 2014, the Defendant, OCTAVIOUS LEON CARR, with intent to defraud, falsely did make, forge, counterfeit or did cause or procure falsely to be made, forged, or counterfeited a writing, or did utter and publish as true a forged, false or counterfeited writing, or willfully act or assist in any of the foregoing, to wit: defendant did present four (4) counterfeit one hundred (\$100) bills of US Currency in exchange for a money card from Walmart; all in violation of Section 16-13-10 of the South Carolina Code of Laws (1976) as amended.

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

  
RICHARD WARING  
ASSISTANT SOLICITOR

TRW20140505090

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2014016237

ARREST WARRANT NUMBER

2014A1021000507

DATE OF ARREST

May 21, 2014

ACTION OF GRAND JURY

TRUE BILL

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

VERDICT

Foreperson of Petit Jury Date:

INDICT

DOCKET NO. 2014GS1005986

The State of South Carolina  
County of Charleston

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

OCTAVIOUS LEON CARR  
DOB: *[Redacted]*  
B/M

Indictment for  
Armed Robbery

FILED

10/21/2014 8:53:43 AM  
JULIE J. ARMSTRONG  
CLERK OF COURT

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHARLESTON    )

## INDICTMENT

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

Armed Robbery

That on or about May 14, 2014, in Charleston County, South Carolina, the Defendant, OCTAVIOUS LEON CARR, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Mathew Lopez with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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

  
RICHARD WARING  
ASSISTANT SOLICITOR

TRW20140505090

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2014016237

ARREST WARRANT NUMBER

2014A1021000508

DATE OF ARREST

May 21, 2014

ACTION OF GRAND JURY

TRUE BILL  
OCT 7 - 2014

Foreperson of Grand Jury  
Date: [Signature]

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1005987

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

OCTAVIOUS LEON CARR

DOB: [Redacted]

B/M

Indictment for

Possession Of A Firearm During The  
Commission Of A Violent Crime

FILED

10/21/2014 8:53:43 AM  
JULIE J. ARMSTRONG  
CLERK OF COURT

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF CHARLESTON )

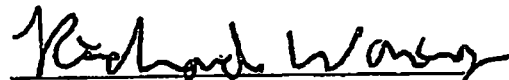
INDICTMENT

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

Possession Of A Firearm During The Commission Of A Violent Crime

That in Charleston County, South Carolina, on or about May 14, 2014, the Defendant, OCTAVIOUS LEON CARR, did possess a firearm or visibly display what appeared to be a firearm during the commission, or attempted commission, of Armed Robbery, a violent crime. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

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

  
RICHARD WARING  
ASSISTANT SOLICITOR

TRW20140504989

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2014016289

ARREST WARRANT NUMBER

2014A1010202536

DATE OF ARREST

May 19, 2014

ACTION OF GRAND JURY

TRUE BILL

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

VERDICT

Foreperson of Petit Jury Date:

INDICT

DOCKET NO. 2014GS1006220

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

October Term 2014

THE STATE

vs.

OCTAVIOUS LEON CARR

DOB: [REDACTED]  
B/M

Indictment for

Entering A Financial Institution With The  
Intent To Steal

FILED

10/21/2014 8:53:43 AM  
JULIE J. ARMSTRONG  
CLERK OF COURT

