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S.C. Supreme Court

**PETITION FOR A WRIT OF CERTIORARI
IN POST-CONVICTION RELIEF ACTIONS**

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Hon. J.C. Nicholson Jr., Circuit Court Judge

Case No. 2013-CP-08-0385

Greg Taylor,

Petitioner,

v.

State of South Carolina

Respondent.

APPENDIX

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APPENDIX A

PROCEDURAL HISTORY

The Applicant was indicted at the March 2012 term of the Berkeley County Grand Jury for possession with intent to distribute marijuana (2012-GS-08-0363). The Applicant was represented by Steve C. Davis, Esquire. On December 17, 2012, the Applicant pled guilty to the lesser included offense of possession of marijuana less than one ounce- first offense. The Applicant was sentenced by the Honorable R. Markley Dennis to confinement for a period of six (6) months, provided upon the payment of a \$750 fine, the balance is suspended to one (1) year probation. The Applicant did not appeal his conviction or sentence.

The Applicant's sole claim is that counsel was ineffective for failing to advise him of the immigration consequences associated with pleading guilty.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Summary of the Testimony

Steve C. Davis, Esquire, was present and testified he has been a trial lawyer for the past thirty-two years. He testified he practices a good bit of criminal defense. He testified most of his clients are legal residents, but he has experience representing non-legal persons from Jamaica. He testified he was retained by the Applicant in February 2012.

Counsel testified the Applicant was originally charged with possession with intent to

distribute marijuana. He testified the Applicant gave a confession then sought a positive resolution to the charges. Counsel testified the Applicant ultimately pled guilty and was sentenced to one year probation terminated upon the payment of a fine. He testified the Applicant received a great deal based on the facts and the evidence.

Counsel testified he and the Applicant discussed the Applicant's immigration status. He testified the Applicant told him that he was not a U.S. citizen. Counsel testified the Applicant consulted with an immigration attorney and knew a lot about his status and the consequences of pleading guilty. Counsel testified he advised the Applicant that if he pled guilty he could face deportation. Counsel testified he advised the Court during the Applicant's guilty plea of his concerns regarding the Applicant's immigration status and PCR. He testified the Court also advised the Applicant of the consequences of pleading guilty. Counsel testified the Applicant's immigration status was a collateral issue and the plea offer the Applicant received was the best deal he could receive. He testified the Applicant was very aware of the immigration consequences of pleading guilty. Lastly, counsel testified he was able to effectively communicate with the Applicant throughout his representation.¹

Ineffective Assistance of Counsel

The Applicant alleges that he received ineffective assistance of counsel. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). 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

¹ In lieu of the Applicant's live testimony, counsel for the Applicant submitted a "Sworn Affidavit of Gregg Taylor" as Applicant's Exhibit 1.

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 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).

Courts use a two-pronged test to evaluate 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.” Id. at 117, 386 S.E.2d at 625 (citing Strickland, 466 U.S. 668). 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). When there has been a guilty plea, the applicant must prove that counsel’s representation was below the standard of reasonableness and that, but for counsel’s unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the

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guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2002) (citations omitted).

This Court finds counsel is a criminal practitioner who has extensive experience in the trial of serious offenses. The record reflects that Applicant's plea was entered freely, voluntarily, knowingly, and intelligently. The Applicant told the plea court that he was satisfied with his attorney and that no one had threatened him or promised him anything to plead guilty.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant, conducted a proper investigation, and provided thorough representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

This Court finds the Applicant has failed to carry his burden of proving counsel was ineffective for failing to advise the Applicant of the immigration consequences associated with pleading guilty. This Court finds counsel provided credible testimony. This Court also finds the "Sworn Affidavit of Gregg Taylor" submitted on behalf of the Applicant is not credible. This Court finds and the record reflects the Applicant was fully advised that he could face deportation as a result of pleading guilty.

In Padilla v. Kentucky, the United States Supreme Court held that where the law is not succinct and straightforward, a criminal defense attorney must advise a non-citizen client that pending criminal charges may carry a risk of adverse immigration consequences. 130 S.Ct. 1473 (2010). This Court finds counsel adequately complied with the Court's ruling in Padilla by advising the Applicant that he could face deportation as a result of pleading guilty. This Court finds counsel's performance was not deficient. This Court also finds any alleged deficiency by counsel regarding his advice to the Applicant on this issue was cured by the plea judge during his colloquy with the Applicant during his guilty plea. The record reflects the plea court advised the Applicant that pleading guilty could subject him to being removed from this country. The following exchange took place between the Court and the Applicant during the Applicant's guilty plea.

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The Court: It's nice to have a resident expert, someone who's here with a green card, but we've talked about it. It doesn't matter where you're legal or illegal. If you commit a crime, you're subject to being removed from this country. Do you understand that Mr. Taylor?

The Defendant: Yes, sir.

The Court: So what we're doing today could affect your right to remain here. Do you understand that?

The Defendant: Yes, sir.

The Court: Still want to go forward with the plea?

The Defendant: Yes, sir.

The Court: Okay. Are you sure?

The Defendant: Yes, Sir.

This Court finds that it is clear from the record the Applicant was fully aware of the effect his guilty plea could have on his immigration status. The Applicant has failed to carry his burden of

proving counsel was deficient in this regard. The Applicant has also failed to show that but for counsel's performance, the Applicant would not have pled guilty. This Court finds this allegation is wholly without merit and this application for post-conviction relief is denied and dismissed with prejudice.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice.

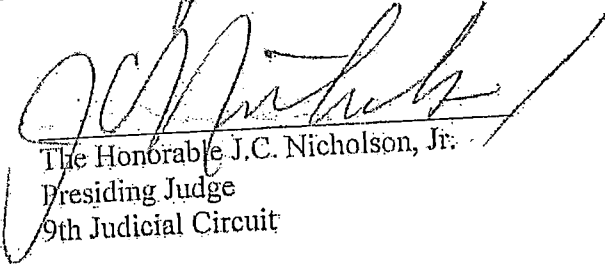
This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules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

[Signature on the following page.]

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 20 day of April, 2015


The Honorable J.C. Nicholson, Jr.
Presiding Judge
9th Judicial Circuit

CHARLESTON, South Carolina.

APPENDIX B

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THE COURT: Okay. We got Gregg Taylor?

MS. WILSON: Your Honor, I can give a little procedural history on that. Mr. Taylor isn't here with us today.

THE COURT: Oh, he's not here?

MS. WILSON: He's not here with us, Your Honor. This is Gregg Taylor versus the State of South Carolina, docket number 2013-CP-08-385. This is Ashleigh Wilson for the State of South Carolina. Mr. Taylor was indicted in March of 2012 for possession of -- sorry -- possession with intent to distribute marijuana and he -- that was indictment number 2012-GS-08-363.

Mr. Taylor was represented at his guilty plea by attorney Steve Davis. He pled guilty before Judge Dennis on December 17, 2012 and he pled guilty to possession of marijuana less than one ounce first offense. He was sentenced to six months providing upon the payment -- suspended provided the payment of 750 dollar fine -- I got that messed up, Your Honor -- six months provided upon the payment of a 750 dollar fine. The balance was suspended to one a year probation with probation being terminated upon the payment of that 750 dollar fine. Mr. Taylor filed this application for post conviction relief on February 13, 2013. He is represented by Mr. Devine.

1 Mr. Taylor isn't present with us today because he has
2 been deported. And his claim in his P-C-R application
3 is ineffective assistance of counsel for failing to
4 advise -- for Mr. Davis' failure to advise him of
5 immigration consequences of pleading guilty. We had this
6 case over the course of some time. It has been scheduled
7 and we've tried to find the best solution in Mr. Taylor's
8 absence to proceed and ---

9 THE COURT: --- where is he? Has he just absconded
10 or what?

11 MR. DEVINE: He was at the time I filed the P-C-R
12 application Judge he was sent to a federal enclave in a
13 little town in Lumpkin, Georgia.

14 THE COURT: Okay. So he is in federal prison?

15 MR. DEVINE: Well he was and then the immigration,
16 Judge removed him from the United States and he is
17 currently in the country of Jamaica.

18 THE COURT: Okay.

19 MR. DEVINE: And Your Honor if I could just -- I
20 think Ms. Wilson because it's important as we go forward
21 today with the claim I believe Ms. Wilson said it was
22 less than one ounce of marijuana. It was actually more
23 than one ounce of marijuana that he pled guilty to.

24 THE COURT: Okay. But he got six months, pay a
25 fine of 750 and one year of probation?

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Proceedings
December 11, 2014

1 MS. WILSON: That's correct, Your Honor.

2 MR. DEVINE: Yes, Judge.

3 THE COURT: Okay.

4 MS. WILSON: So Your Honor, we're here to proceed
5 on the matter in Mr. Taylor's absence.

6 THE COURT: All right. Call your first witness.

7 MR. DEVINE: Thank you, Judge. I call Mr. Davis,
8 please.

9 THE COURT: Mr. Davis, come around and be sworn.

10 [Whereupon, Mr. Davis comes forward]

11 [Whereupon, the witness is duly sworn by the Clerk
12 of Court]

13 CLERK OF COURT: State your first and last name
14 into the microphone and then spell your last name for the
15 record.

16 THE WITNESS: Steve Christopher Davis, Davis is
17 D-A-V-I-S.

18 MR. DEVINE: Thank you, Judge. May I proceed?

19 THE COURT: Yes, sir.

20 MR. DEVINE: Thank you, Judge.

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STEVE DAVIS,

Having been first duly sworn,
Was examined and testified as follows:

DIRECT EXAMINATION

BY MR. DEVINE:

Q. Mr. Davis, where do you currently practice law?

A. I practice law in the state of South Carolina.

Q. And how long have you been practicing law in South Carolina?

A. Thirty-two years.

Q. And what is your practice mainly made up of?

A. I'm a trial lawyer. I defend people who find themselves charged with criminal offenses. I try cases involving personal injury. I try cases involving people who for some reason cannot work anymore so I do disability cases.

I do a little bit of Probate matters involving people who are deceased and need someone to assist them in the administration of their estate. I do not do -- I do some juvenile representation. I don't do any domestic relations.

Q. So you do a fair amount of criminal defense?

A. I do a lot of things other than criminal defense too but I do a good majority of that too.

Q. Okay. And in your criminal defense practice how do

1 you represent individuals who have no legal status in the
2 United States?

3 A. The majority of folks I represent do have legal
4 status. Every now and then I get someone that don't have
5 legal status.

6 Q. And where are they normally from? What country?

7 A. It seems like a very overriding group of them is
8 from Jamaica.

9 Q. Jamaica?

10 A. Yes.

11 Q. Okay. And you're familiar with my client Mr. Gregg
12 Taylor?

13 A. I recall Mr. Gregg Taylor, yes I do.

14 Q. Okay. And do you remember when Mr. Taylor retained
15 your services?

16 A. Sometime in February of 2012 I recall.

17 Q. Okay. And do you in your practice do you keep up
18 with current cases that have been -- by case law new
19 cases that have been coming down maybe from the Supreme
20 Court or the Supreme Court in Washington?

21 A. I've got what we call advance sheets. Any major
22 developments I go to CLE's involving criminal and civil.
23 So I think I keep pretty abreast of changes in the law
24 and how it impacts my clients.

25 Q. And do you remember when Mr. Davis [sic] came to you

1 what he was actually charged with sir?

2 A. He was charged with P-W-I-D marijuana; a zero to
3 five year offense in the state of South Carolina.

4 THE COURT: Mr. Taylor, not Mr. Davis. You said
5 when Mr. Davis came to see you.

6 MR. DEVINE: Mr. Davis ---

7 THE WITNESS: --- that's all right, Judge.

8 Q. [Mr. Devine] Sorry Mr. Davis. And Mr. Davis what
9 sort of plea negotiation deal did you come to with the
10 Solicitor's office invoking ---

11 A. --- well sir, let me tell you. I run a protocol in
12 my office. It's not dependent upon the client per se;
13 it's dependent upon a protocol involving criminal
14 offenses. A young man comes in charged with a criminal
15 offense the first thing I want to ascertain what are the
16 facts.

17 In that regard in drug cases one of the prevailing
18 view is constitutional safeguards. Was any
19 constitutional mandate been violated in particular
20 consequences?

21 So you go through a colloquy of ascertaining what
22 the facts are; police reports, statements or confessions
23 that are granted by the defendant. In this case Mr.
24 Gregg Taylor gave a confession. I reviewed the facts
25 similar and based upon that the process is what type of

1 resolution can I hope to accomplish in a case like this.
2 In all my cases is three prong. I always pursue a case
3 to see if I can dismiss it; find a dismissal based on
4 constitutional basis.

5 If we can't accomplish that then the next step is a
6 pretrial intervention or a conditional discharge. And
7 then if none of those situations can be presented then my
8 concern is liberty, freedom and so I'm concerned about
9 probation.

10 But all of this is guided by the tenet of whether or
11 not the state of South Carolina can prove their cases
12 beyond a reasonable doubt because I tell every one of my
13 clients, even Mr. Gregg Taylor; you're innocent until
14 proven guilty.

15 You are not required to prove yourself guilt or
16 you're innocent. That hinges on the state of South
17 Carolina. And so that's the basis from which all other
18 decisions are made.

19 Q. And in Mr. Taylor's particular case Mr. Davis he
20 pled guilty to possession of more than one ounce of
21 marijuana first offense?

22 A. This was a great deal for him.

23 Q. Okay. And he received six months probation.

24 A. He received six months -- really this is what he
25 received. He received one year of probation because the

1 offense only carries six months. So the Judge gave him
2 one year of probation, suspended upon that six months
3 with a fine of 750 dollars to be paid. The minute he
4 paid -- I think Mr. Taylor could have paid that 750
5 dollar plus court cost the same day he would not even
6 have incurred probation.

7 Q. Why did you believe that was a great deal for him?

8 A. Because you go back to the tenet that I told you
9 about the protocol. The facts and the evidence we can't
10 change that.

11 So I made a decision to why I'm here today about
12 ineffective assistance of counsel the first thing is what
13 strategy, what professional decision would I make is made
14 based on the facts of the case. Let's revisit that.

15 You have a young man who consents to his abode, his
16 home being searched. They find two pounds of marijuana.
17 There are two other individuals that also reside in that
18 house.

19 He accepts full responsibility for the marijuana,
20 two pounds, and tells the authority and writes a
21 confession that the marijuana belongs to him, that he
22 paid 2,000 dollars for it and that he intends to sell a
23 portion of it and the remainder he planned to use for his
24 personal use. That is the basis from which all other
25 decisions are made.

1 Q. Did you at any point during this decision did you
2 talk with him about his immigration status?

3 A. To be honest with you his immigration status is nil
4 in reference to his freedom.

5 Q. But did you talk with him about his status?

6 A. I'm going to get to that, sir, okay. I'm going to
7 tell you the process. I want you to understand my mental
8 process. My mental process freedom and the context of
9 the case that is confronted to me is overriding than any
10 immigration concern. So that's where my decision is
11 derived from.

12 But you know what? Thanks be to God in this case we
13 did have some discussion about immigration because if you
14 review the transcript I made the point during the plea to
15 advise the court that I am in the midst of some post
16 conviction relief right now dealing with a young lady
17 from Jamaica, I didn't give no name, with challenging
18 that I did not advise her about the consequences of her
19 plea and how it would impact her immigration status.

20 So to answer your question in a short version yes we
21 discussed immigration and the consequences.

22 Q. Are you aware that he has now been removed and he's
23 in Jamaica?

24 A. Well yes you brought that to my attention. He's not
25 in prison in the United States, which was another

1 possibility he could have been in the United States in
2 prison for zero to five years.

3 Q. Okay. So when you discussed his immigration status
4 were you aware of what particular status he was in the
5 United States at the time?

6 A. He told me he wasn't an American citizen.

7 Q. He was an American citizen?

8 A. He was not.

9 Q. Okay. Did you inquire as to what Visa he may have
10 been on in the United States at the time?

11 A. Sir, I generally would but it would not be an
12 overriding concern or affect my defense with P-W-I-D
13 marijuana. I still have to come back to that particular
14 issue.

15 So having knowledge of that would be great for him
16 because in this particular case I did inquire with some
17 immigration lawyers and tried to ascertain the big makeup
18 just because you know he knew a lot about his status and
19 he knew what the consequences were and I made a point of
20 trying to educate myself up to the point that he
21 understood also about his status.

22 So when you allude to the fact whether or not I
23 inquired into his immigration status yes sir, I did.

24 Q. Did you advise him that if he took this plea deal
25 there was potential for him to be deported from the

1 United States?

2 A. If you read the transcript which is his own word
3 Judge Dennis advised him that there were potential
4 consequences for him to plead guilty and inquired of him
5 despite that fact do you still want to plead guilty and
6 his response was yes.

7 And if he had shared that with me I would have said
8 the same thing to him that based on the premise from
9 which I do my protocol on my cases I concern was the P-W-
10 I-D marijuana.

11 Q. But I'm asking you Mr. Davis did you advise him that
12 he may be deported?

13 A. That was one of the consequences, yes sir.

14 Q. Okay. You advised him of that?

15 A. Yes, sir.

16 Q. Okay. And you mentioned earlier that you sort of
17 keep updated with the advance sheets in South Carolina on
18 cases?

19 A. The United States of America.

20 Q. Okay. Have you read the Padilla v Kentucky case?

21 A. No sir, I don't recall reading that.

22 Q. Okay. So did you ever before the plea deal for Mr.
23 Taylor did you review the removable statute?

24 A. Sir, to be quite honest with you it wouldn't have
25 mattered in reference to the defense of his case. It's

1 always going to go back to my protocol of whether the
2 State can prove its case or not. This is a collateral
3 issue you are discussing. I would not dwell -- I'll put
4 it this way.

5 Say that I determined hypothetically that he can be
6 deported. Tell me how that assists me in whether or not
7 he is guilty or not and how I can defend him? How does
8 that change that?

9 Q. Well would it have assisted you if you had read the
10 statute to see if the plea was less than one ounce of
11 marijuana he would not have been deported from the United
12 States?

13 A. Well, less than one ounce of marijuana. Do you do
14 any criminal cases?

15 Q. I'm asking you a question ---

16 A. --- let me tell you this. The deal that I was
17 eventually able to secure was the best potential deal
18 that I could secure based on the circumstances.

19 I have notes in my file where I begged the state of
20 South Carolina, the Solicitor, for a conditional
21 discharge, which would have created an inference where it
22 would have been eradicated of his record.

23 But the assistant prosecutor informed me that he
24 don't believe that anybody who is illegal in the United
25 States should receive any benefits; especially a

1 conditional discharge. So to answer your question the
2 potential for him to get less than an ounce may have been
3 a reality but the truth of the matter I had no way to
4 forge or make that become a reality.

5 Q. Okay. So who were the immigration attorneys you
6 conferred with?

7 A. I don't recall. I made a telephone call and someone
8 in New York as I recall. I had him in communication as
9 best I can recall with some attorney in New York because
10 what was happening at this time I was dealing with
11 another young lady out of Dorchester County who was in
12 New York and was confronted with this same issue had
13 recently been post conviction relief and cross-examined
14 in the same manner that you are doing today, which had no
15 bearing on whether he is guilty or innocent.

16 Q. Do you know any general things concerning
17 immigration law Mr. Davis?

18 A. Well you know that's kind of broad any general
19 thing?

20 Q. Well you've represented clients without papers you
21 said earlier.

22 A. Sir, I'm telling you what my protocol and premise is
23 I can know all the immigration laws in the United States.
24 They really don't have no impact if it's not going to
25 help me in my defense of my client. If the facts are

1 overriding and I have to make a decision about whether or
2 not the state of South Carolina can prove its case the
3 fact that the consequences out there may be grave from an
4 immigration standpoint really is of little use to me to
5 be honest with you.

6 Q. Pleading guilty to a drug charge Mr. Davis would you
7 think in your profession that it would be clear that Mr.
8 Taylor would be subject to deportation?

9 A. Sir that would have been of small consequence to me
10 in relationship to the facts of what he was charged with
11 and my role as an attorney.

12 And in conjunction with ineffective assistance of
13 counsel now if you can tell me Mr. Davis the facts were
14 such that there was some defect or you made the wrong
15 assessment in your decision regarding whether this case
16 was a viable case those things that you are suggesting to
17 me become paramount.

18 But to me it seems like you're putting the horse
19 before the cart or the cart before the horse because my
20 primary concern is the defense of my client and whether
21 or not the state of South Carolina can prove his guilt
22 beyond a reasonable doubt.

23 Q. In the transcript on page 5 have you reviewed that?

24 A. Yes, I read it.

25 Q. You talk about that you were in some post conviction

1 relief and about the status of whether or not you advised
2 them competently to affect their immigration status. So
3 you were aware of immigration consequences?

4 A. I think I've already said that.

5 Q. So why did you not at least look at the removable
6 statute to inform Mr. Taylor by pleading guilty he would
7 be subject to deportation?

8 A. Sir, Mr. Taylor had an obligation separate and apart
9 from me to know his rights to come into this country just
10 like every other citizen who is legally in this country
11 is held to the responsibility to know their rights as an
12 American citizen.

13 Therefore if someone comes into our country illegal
14 they have an obligation and a right to know how their
15 behavior affect their status in these United States of
16 America.

17 And so if I failed in any manner to heighten the
18 consequences to him I think there was an equal burden on
19 him to know what his rights were when they gave him that
20 green card.

21 Q. Okay. So did you inform Mr. Taylor that the plea
22 would have no consequence because he did not have his
23 green card?

24 A. I think the record speaks for itself when Judge
25 Dennis inquired of him that there will be consequences in

1 the same transcript you just read to me. Pull the pages
2 and look in the transcript where Judge Dennis from the
3 bench inquired with him and shared with him now sir you
4 know this may have consequences in reference to your
5 immigration -- wait a minute -- and he said yes, sir. Do
6 you still want to plead guilty? Yes, sir.

7 Q. You were his attorney on the day of the plea Mr.
8 Davis ---

9 A. --- I was his attorney from the day he signed a
10 contract with me in February of 2012 I zealously
11 represented him from that standpoint right up to the day
12 that he pled guilty.

13 Q. Sir, I understand what Judge Dennis stated. But did
14 you inform Mr. Taylor that his plea would have no
15 consequence because he was not a green card holder ---

16 A. --- I never shared -- why would I use the term no
17 consequence when the judge involved told him that there
18 would be consequence? That would be misspeaking in
19 reference to -- I have no recollection of ever telling
20 this young man there would be no consequences.

21 Q. Okay. Did you ever inform him that he would not
22 have a problem with his immigration after the plea?

23 A. Is that the same question?

24 Q. Did you ever inform him that by pleading guilty he
25 would have no consequences with his ---

Gregg Taylor v State
Steve Davis-Direct Examination by Mr. Devine
December 11, 2014

1 A. --- I just answered that question.

2 Q. When did you answer ---

3 A. --- I answered the question.

4 Q. Yes or no sir?

5 A. It's not a yes or no -- I have no recollection I
6 told you that I shared with that there would be
7 consequences.

8 Q. Did Mr. Taylor ever advise you that he was married
9 to a U.S. citizen?

10 A. I don't recall. He told me he had a child. As a
11 matter of fact if memory serves me right I told him he
12 should get married. That's how much I knew what
13 immigration to some extent I said you should get married.
14 I hope that will improve your status. He didn't want to
15 get married though.

16 Q. So he told you he had a child?

17 A. Yes, he did.

18 Q. Did he tell you that the child was a U.S. citizen
19 child?

20 A. Sir, I'm not as ignorant as you may think I am. But
21 if you are born in America then you're a United States
22 citizen okay.

23 Q. Okay. So we can infer that he had a U.S. citizen
24 child that's what he told you.

25 A. You know that's the proper procedure. I know that

1 general principal of immigration that if you are born in
2 the United States then you're a United States citizen; I
3 know that much.

4 Q. Okay. So knowing he had a U.S. citizen child don't
5 you think it would have been ---

6 THE COURT: --- the transcript said they had two
7 children okay.

8 Q. [Mr. Devine] Okay. But knowing he had a child --
9 children in the United States do you believe it would
10 have been professionally appropriate for you to at least
11 look into ---

12 MS. WILSON: --- Your Honor, I have to object. I
13 don't think this line of questioning is relevant because
14 Mr. Davis has already testified that he ---

15 THE COURT: --- it's getting very repetitive. He's
16 asked it about five or six times so move to something
17 else okay. You've asked him the same question about six
18 times in different versions.

19 MR. DEVINE: I have nothing further, Judge. Thank
20 you.

21 THE COURT: Okay. Cross-Examination.

22 MS. WILSON: Thank you Your Honor; briefly.
23
24
25

1 CROSS-EXAMINATION

2 BY MS. WILSON:

3 Q. Mr. Davis you would agree with me that you're not an
4 immigration attorney is that correct?

5 A. That's correct.

6 Q. But you are aware that deportation is a collateral
7 consequence?

8 A. It is a collateral consequence. I was in the midst
9 of one at the time.

10 Q. And you had some experience representing some people
11 from Jamaica is that correct?

12 A. That's correct.

13 Q. And it's also your testimony ---

14 A. --- I'm representing a few from Jamaica right now as
15 we speak.

16 Q. And it was your testimony today that you advised Mr.
17 Taylor that if he pled guilty he could face deportation
18 is that correct?

19 A. That's correct.

20 Q. And the court also advised him of that during his
21 guilty plea is that correct?

22 A. The record speaks for itself.

23 Q. And he still chose to plead guilty after knowing
24 that?

25 A. Yes, he did.

1 Q. And did you have any problems communicating with Mr.
2 Taylor?

3 A. No, not at all. Sometimes they say I sound like I'm
4 from Jamaica.

5 MS. WILSON: Beg the court's indulgence.

6 THE COURT: Yes, ma'am.

7 [Whereupon, Ms. Wilson reviews documents]

8 Q. [Ms. Wilson] Thank you, Mr. Davis.

9 A. Thank you.

10 THE COURT: Anything in reply?

11 MR. DEVINE: Nothing further. Thank you, Mr.
12 Davis.

13 THE COURT: Thank you very much. Mr. Davis you
14 may step down. Thank you very much.

15 THE WITNESS: Can I go back to the great county of
16 Berkeley County, Your Honor?

17 THE COURT: Head on back up the road. Have a good
18 day.

19 THE WITNESS: Thank you, Judge.

20 THE COURT: Have a good Christmas.

21 THE WITNESS: Thank you. Have a Merry Christmas
22 too.

23 [Whereupon, the witness is excused and exits the
24 witness stand]

25

Gregg Taylor v State
Proceedings
December 11, 2014

1 THE COURT: Any further witnesses?

2 MR. DEVINE: No. Your Honor, I do -- and I've
3 provided to Ms. Wilson -- I do have an affidavit from Mr.
4 Taylor saying he's going forward and all those things.

5 THE COURT: Ms. Wilson?

6 MS. WILSON: Your Honor, based on the factual basis
7 of Mr. Taylor's deportation I don't have any objection.
8 I reviewed the affidavit.

9 THE COURT: You don't have any objection to
10 submitting it?

11 MS. WILSON: No, Your Honor.

12 THE COURT: So if you want to hand it up you can
13 mark it as I guess petitioner's exhibit number 1.

14 MR. DEVINE: Thank you.

15 [Whereupon, Mr. Devine provides documents to the
16 court]

17 [Whereupon, the court reviews documents]

18 THE COURT: Mark this as petitioner's exhibit
19 number 1.

20 [Whereupon, petitioner's exhibit number 1 is marked
21 by the court reporter]

22 THE COURT: Okay. Anything else, Mr. Devine?

23 MR. DEVINE: No, Judge.

24 THE COURT: Any arguments?

25 MR. DEVINE: Nothing further, Judge. I rest.

Gregg Taylor v State
Proceedings
December 11, 2014

1 THE COURT: Okay. The petition -- the P-C-R
2 petition is denied. Ms. Wilson, if you will type me up a
3 proposed order please?

4 MS. WILSON: I will, Your Honor. Thank you.

5 MR. DEVINE: Thank you, Judge.

6 THE COURT: Thank you.

7 *****END OF TRANSCRIPT OF RECORD*****

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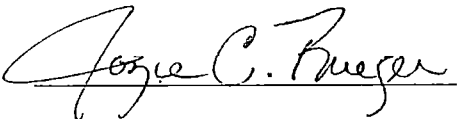
25

C E R T I F I C A T E

1
2 I, the undersigned, Joyce C. Rueger, Official
3 Circuit Court Reporter for the Ninth Judicial Circuit of
4 the State of South Carolina, do hereby certify that the
5 foregoing is a true, accurate, and complete Transcript of
6 Record of the proceedings had and evidence introduced in
7 the trial of the captioned case, relative to appeal, in
8 the Court of Common Pleas for Charleston County, South
9 Carolina on the 11th day of December, 2014.

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

12
13 June 12, 2015

14
15
16 

17 Joyce C. Rueger, CVR-M

18 Court Reporter
19
20
21
22
23
24
25

APPENDIX C

SWORN AFFIDAVIT OF GREGG TAYLOR

I, Gregg R. Taylor, do swear under the pain and penalty of perjury that my attorney Steve C. Davis did not properly advise me of the consequences of my immigration status as to accepting a guilty plea in my criminal case.

1. My attorney informed and assured me that I had nothing to worry about as to the immigration consequences of my plea of guilty in my criminal case because I never had my lawful Permanent Resident Status as yet and accordingly my guilty plea would not have no consequence on my pending application to adjust my status to Lawful Permanent Resident via my United States Citizen wife. I informed my attorney that I was in the process of attaining lawful status and he pointedly told me that I should not be concerned about any immigration problems as the immigration authorities cannot use a guilty plea against me since my paperwork to adjust status is in process. He then stated if I had my green card then I would possibly have to deal with immigration, however because it was pending, they could not use my guilty plea against me.
2. My attorney was aware that I was against pleading guilty because the charges against me was false and the evidence obtained was unfair and incorrect due to my understanding of US laws and procedures. I also have a hard time understanding American dialect due to speaking the native language in Jamaica Patwa. Therefore, I depended on my attorney to advise me and inform me properly as to the immigration consequences if accepting the plea deal. I have a family that I have been separated from and am now unable to be a part of their lives due to my attorney telling me I had nothing to worry about as far as my immigration status resulting in my deportation. In his words my attorney told me, "I can promise you that you will walk out of that court room a free man in the US, the only thing that you may have to do is 6 months' probation". Therefore I had no worries about my immigration status being affected.
3. If I had known that I would have faced deportation I would have not entered a guilty plea, I would have gone to trial. My attorney was more interested in doing a deal, something I was not opposed to, so long as it would not have affected my ability to remain in the United States. It was upon the advice of my attorney that I had no immigration issues to be concerned about that made me accepted a plea agreement that unbeknownst to be resulted in my deportation.

Gregg R. Taylor
Gregg R. Taylor

Sworn to and subscribed before me this 24th day of November, 2014, by Gregg R.

Taylor, who personally appeared before me, is personally known to me or produced Jamaican Drivers License No 107918480 as identification, and did take an oath.

Notary: [Signature]
Trevor Carter DeLeon
Public for the

[NOTARIAL SEAL]

Print Name: Trevor Carter DeLeon
Island of Jamaica
My Commission Expires My commission is for Life

DOES NOT
My Commission Expires
My commission is for Life

APPENDIX D

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS

2013-CP-08-385

GREGG TAYLOR)
CURRENTLY DETAINED AT)
146 CCA ROAD, LUMPKIN, GA)
31815)

A 205 668 891)

APPLICANT)

APPLICATION FOR
POST-CONVICTION RELIEF

BERKELEY COUNTY
CLERK OF SUPERIOR COURT

2013 FEB 13 PM 12:49

FILED

vs.)

STATE OF SOUTH CAROLINA)
_____)

THE APPLICANT, MR. GREGG TAYLOR BY AND THROUGH HIS COUNSEL OF RECORD, MR. MARK JOHN DEVINE, ESQ., MAKES THE FOLLOWING REQUEST FOR AN EXPEDITED HEARING AS TO HIS APPLICATION FOR POST-CONVICTION RELIEF. THE GROUNDS FOR THE APPLICATION ARE AS FOLLOWS:

1. That the applicant is currently being detained at 146 CCA Road, Lumpkin, GA 31815.
2. That on December 17, 2012 in the Court of General Sessions for the County of Berkeley, the applicant was sentenced to six months that was suspended with probation for one (1) year and a fine with court costs imposed.
3. The applicant on December 17, 2012 in the Court of General Sessions for the County of Berkeley accepted a recommendation by the state of South Carolina

MJD
13

for a lesser included offense of possession of more than one (1) ounce of marijuana, first (1st) offense. The applicant accepted a guilty plea as to this offense.

4. The indictment number for the offense is 2012-GS-08-0363.
5. The judgment as set-forth has not been appealed to any state court of South Carolina.
6. There have been no petitions filed in State or Federal Courts for habeas corpus or post-convictions relief.
7. There have been no petitions to the United States Supreme Court for certiorari and no other petitions that have been filed.
8. The applicant is a citizen of Jamaica and entered the United States lawfully in 2008. The applicant is married to a United States Citizen and has a United States' Citizen minor child.
9. The applicant is informed to believe that this application is being made based on the fact that his prior counsel of record was ineffective as to his assistance of counsel. The applicant is further informed to believe that because of his immigration status, the applicant has been prejudiced and because of his prior counsel's ineffectiveness, then the applicant would never have pleaded guilty and would have insisted on going to trial.
10. The applicant by pleading guilty is now confined to a federal enclave in Lumpkin GA and immigration proceedings have been initiated against him so that the outcome could be deportation from the United States and the

likelihood that he would not be able to visit his wife and minor child for at least ten (10) years.

11. That the applicant believes that there has been an apparent ineffectiveness of counsel due to the following reasons:

- A. That the applicant was never advised about the immigration consequences of pleading guilty.
- B. That the applicant was informed that by pleading guilty, the only consequence of pleading guilty would be probation that would in turn would not affect his immigration status. When the applicant visited his probation officer, the applicant was immediately arrested by Immigration Customs Enforcement (ICE).
- C. That the applicant was advised by his counsel that he had reviewed the immigration law and that by pleading guilty, the applicant would not have any immigration consequences.
- D. The Naturalization and Immigration Act clearly states that any controlled substance as defined in Section 102 of the Controlled Substances Act, 21 USC 802, other than a single offense involving possession for one's own use of 30 grams or less of marijuana mandates that an individual is inadmissible, deportable and mandatory detainable in a federal enclave without any recourse as to a custody redetermination.
- E. That counsel never advised the applicant of the extreme consequences as set-forth in paragraph 11 (D) as to pleading guilty and advised the

applicant that by pleading guilty, the applicant would only have to complete probation and this would have no effect on his immigration status.

12. That the applicant's prior counsel's full name is, Steve C. Davis, Esq., of 431 East Main Street, PO Box 1168, Monks Corner, SC 29461.
13. That because of the applicant's informed belief that his counsel provided ineffective assistance due to the fact that he was not advised of the clear and draconian immigration consequences of pleading guilty the applicant would not have pleaded guilty and insisted on going to trial. As a consequence:
 - A. The applicant was not advised of the adverse immigration consequences of the plea agreement that by accepting the plea agreement the consequences to the applicant would be deportation and separation (exile) from his immediate family members.
 - B. The applicant was not advised of the true and clear consequences of deportation and the severe immigration consequences, the applicant's plea agreement makes it likely that his deportation will be virtually mandatory under United States Immigration Laws and thus was not advised correctly. The applicant by way of his undersigned counsel urges the court to be cognizant of the United States Supreme Court decision Padilla v. Kentucky, March 31, 2012.
 - C. The applicant by entering into the plea agreement based on the charges under the South Carolina Code, have made the applicant virtually

deportable to which this advice was never given to the applicant and is in violation of Padilla.

D. The applicant is now prejudiced because of the failure to duly advise of the deportation consequences of accepting the plea agreement and will ultimately face separation from his immediate family.

14. That the applicant is not under any sentence from any other court.

WHEREAS, the applicant prays for the following relief due to the ineffective assistance of counsel as stated herein which has resulted in prejudice to the applicant:

- 1): That the applicant's sentence/conviction be overturned and vacated; and
- 2): That order any further relief that is equitable and just to the applicant which protects the applicant's constitutional rights.

LAW OFFICE OF MARK J. DEVINE



MARK J. DEVINE
P. O. BOX 21283
CHARLESTON, S.C, 29413
843 789-4586
FAX 843 974-5082

February 11th, 2013
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS

2013-CP-08-385

GREGG TAYLOR

Plaintiff(s)

CIVIL ACTION COVERSHEET

-CP-

vs.

APPLICATION FOR POST-
CONVICTION RELIEF

STATE OF SOUTH CAROLINA

Defendant(s)

Submitted By: MARY T. DEWINE

SC Bar #: 74779

Address:

PO BOX 21283
CHARLESTON, SC 29413

Telephone #: 843-78-4506

Fax #: 843-974-5812

Other:

E-mail: MARY@MTDEWINE.COM

FILED
2013 FEB 13 PM 4:49

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| <p>Contracts</p> <ul style="list-style-type: none"> <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> Employment (120) <input type="checkbox"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Other (199) | <p>Torts - Professional Malpractice</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) Previous Notice of Intent Case #
<u>20-CP-</u> <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <input type="checkbox"/> Assault/Slander/Libel (300) <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Wrongful Death (360) <input type="checkbox"/> Other (399) | <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input type="checkbox"/> Other (499) |
| <p>Inmate Petitions</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> PCR (500) <input type="checkbox"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) | <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Drv. License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture-Petition (840) <input type="checkbox"/> Forfeiture-Consent Order <input type="checkbox"/> Other (899) | <p>Judgments/Settlements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760) <input type="checkbox"/> Confession of Judgment (770) <input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780) <input type="checkbox"/> Other (799) | <p>Appeals</p> <ul style="list-style-type: none"> <input type="checkbox"/> Arbitration (900) <input type="checkbox"/> Magistrate-Civil (910) <input type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Public Service Comm. (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) |
| <p>Special/Complex /Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Other (699) | <ul style="list-style-type: none"> <input type="checkbox"/> Pharmaceuticals (630) <input type="checkbox"/> Unfair Trade Practices (640) <input type="checkbox"/> Out-of-State Depositions (650) <input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660) <input type="checkbox"/> Sexual Predator (610) | | |

Submitting Party Signature:

M.T. Dewine

Date: 02/13/13

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

APPENDIX E

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Berkeley
STATE VS.

INDICTMENT/CASE#: 2012-GS-08-0363

Gregg Taylor

A/W#: M334918

AKA:

Date of Offense: 2/3/2012

Race: BLACK Sex: M Age: 34

S.C. Code §: 44-53-0370(b)(2)

DOB: SS#: Address: Road

CDR Code #: 0186

City, State, Zip: Ladson, SC 29456

DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Possession > 1oz marijuana - 1st offense

in violation of § 44-53-0370(d)(2) of the S.C. Code of Laws, bearing CDR Code # 0179
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 Presentation to Grand Jury, (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Shelton Benjamin T SC Bar# 77207 Defendant
Attorney for Defendant SC Bar# 1587

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 6 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ 750.00; provided that upon the service of days/months/years and/or payment
of \$ 750.00, plus costs and assessments as applicable*; the balance is suspended with probation for 1

month/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: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-299 (DUI Assessment), § 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prdb), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114 (BUI Breath Test Fee), § 56-5-2942(I) (Vehicle Assessment), Proviso 90.3 (SCCIA Surcharge), 3% to County (if paid in installments), TOTAL.

days/hours Public Service Employment

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

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

Clerk of Court Deputy Clerk Addison Luckey
Court Reporter: Amanda Hatten den
SCCA/217 (03/2011)

Presiding Judge R. Mark...
Judge Code: 20120
Sentence Date: 12/17/12

JH

APPENDIX F

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

COURT OF GENERAL SESSIONS
2012-GS-08-0363

STATE OF SOUTH CAROLINA)

-vs-

GREGG TAYLOR,
Defendant.)

) TRANSCRIPT OF RECORD
) December 17, 2012
) Moncks Corner, South Carolina

B E F O R E:

The Honorable R. Markley Dennis, Jr., Judge.

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

Steve Davis, Esquire
Attorney for the Defendant

Amanda K. Haffenden, RPR, CRR
Circuit Court Reporter

1 (December 17, 2012.)

2 THE ASSISTANT SOLICITOR: Gregg Taylor
3 appearing before you, Your Honor, and of course
4 Mr. Davis.

5 THE COURT: Okay. This is an indictment for
6 PWID?

7 THE ASSISTANT SOLICITOR: It is.

8 THE COURT: You're Greg Taylor?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Mr. Taylor, indictment 2012-363
11 charges you with possession with intent to distribute
12 marijuana.

13 Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Your lawyer is Mr. Davis. He's
16 explained that charge to you and the possible punishment
17 for that charge and the lesser included offense of
18 possession of more than an ounce?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You understand I could sentence
21 you up to six months for that, sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: How do you plead?

24 THE DEFENDANT: Guilty, sir.

25 THE COURT: Satisfied with your lawyer?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: What's the recommendation,
3 solicitor?

4 THE ASSISTANT SOLICITOR: Probation, Your
5 Honor.

6 THE COURT: That's your understanding
7 Mr. Davis?

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

9 THE COURT: Have you discussed the matter
10 fully with your client?

11 MR. DAVIS: I have, Your Honor.

12 THE COURT: He's been advised of his rights
13 and the consequences of the plea?

14 MR. DAVIS: He has.

15 THE COURT: Mr. Taylor, is that true, sir?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you understand and realize if
18 I accept the plea, you'll not have a jury trial, you'll
19 not confront the witnesses against you, and you give up
20 the right to remain silent?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Anybody threaten you in any way
23 or promise you anything if you plead guilty?

24 THE DEFENDANT: No, sir.

25 THE COURT: Tell me the facts, please, sir.

1 THE ASSISTANT SOLICITOR: Thank you, Your
2 Honor. May it please the Court: Officers responded 359
3 Oxford Road in Berkeley County after a United States
4 postal service informed them of a suspicious package that
5 had been delivered to that address. There they received
6 consent from the defendant and another resident to search
7 the home.

8 Inside officers found nearly two pounds of
9 marijuana inside his home. He admitted it was his and
10 that he had purchased it for \$2,000. This occurred in
11 Berkeley County.

12 Your Honor, he has no prior record. That's
13 the reason for the lesser included in the recommendation.

14 THE COURT: Okay. Are those facts correct,
15 Mr. Taylor?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: I'll accept the plea. Mr. Davis?

18 MR. DAVIS: Judge, we had vigorously asked
19 for a conditional discharge, but he was a soccer player
20 in Jamaica, and he found him a beautiful, attractive
21 American girl. They have two kids together, and the
22 solicitor took the position since he's not here properly,
23 that he wouldn't give him any conditional discharge. I
24 was hoping -- somewhat dismissive of it, but I got to
25 accept it because the facts support the charge, Your

1 Honor. He had no prior criminal record at all.

2 We would have some grave concerns because I
3 just came out of postconviction relief in reference to
4 people who have the status of whether or not we advised
5 them competent to enough to affect their immigration
6 status, but having said that, Your Honor, he stands
7 before you prepared to accept responsibility.

8 I would ask the Court to, in spite of the
9 recommendation, to actively consider a fine in the matter
10 in lieu of probation, Your Honor.

11 Greg has no prior record. He was born in
12 1978. He has been in this country, no crimes of violence
13 whatsoever, but he do have a two-year-old son and he
14 works and he do contribute to society from a tax base.

15 So it would be my position, Your Honor, that
16 you could impose a fine if the Court would see fit, Your
17 Honor.

18 THE COURT: Okay. Mr. Taylor, is there
19 anything you wish to add?

20 THE DEFENDANT: No, sir.

21 THE COURT: It's nice to have a resident
22 expert, someone who's here with a green card, but we've
23 talked about it. It doesn't matter whether you're legal
24 or illegal. If you commit a crime, you're subject to
25 being removed from this country.

1 Do you understand that, Mr. Taylor?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: So what we're doing today could
4 affect your right to remain here. Do you understand
5 that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Still want to go forward with the
8 plea?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. Are you sure?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay.

13 MR. DAVIS: Thank you, Judge.

14 THE COURT: It's the sentence of the Court
15 that you be committed to the Department of Corrections
16 for a term of six months. I'm going to suspend that
17 sentence upon the payment of a fine of \$750 plus costs.
18 Place you on probation for one year, but you may PTUP it.
19 So once you pay the fine and costs in full, you're
20 finished.

21 MR. DAVIS: Judge, we thank you very much.

22

23 (Whereupon, the proceedings were concluded.)

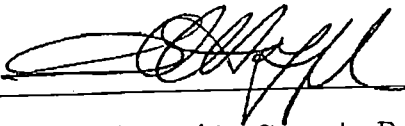
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I, the undersigned Amanda K. Haffenden, RPR, CRR, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Berkeley County, South Carolina, on the 17th of December 2012.

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

April 9, 2012



Circuit Court Reporter