

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Berkeley County

Michael G. Nettles, Circuit Court Judge

RADU RENCIU,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000090

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General
Attorney General Office
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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S.C. SUPREME COURT

INDEX

INDEX i

GUILTY PLEA TRANSCRIPT DATED JUNE 24, 20151

APPLICATION FOR POST-CONVICTION RELIEF25

RETURN.....42

POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED DECEMBER 4, 201749

DEFENDANT’S EXHIBIT #1 (E-MAILS)94

ORDER OF DISMISSAL99

INDICTMENTS108

BAIL RECORDS.....116

1 STATE OF SOUTH CAROLINA)
) Court of General Sessions
 2 COUNTY OF BERKELEY) Case No. 2013-GS-08-1765,
) 2013-GS-08-1766 and
 3) 2015-GS-08-00308
)
 4 STATE OF SOUTH CAROLINA)
)
 5 vs.) Transcript of Record
)
 6 RADU RENCIU,)
)
 7 Defendant.)
)
 8) DATE: June 24, 2015

9
 10 B E F O R E:
 11 THE HONORABLE R. MARKLEY DENNIS, JR.

12
 13 A P P E A R A N C E:
 14 WILTON H. McNEELY
 Attorney for the State
 15 CHAD D. SHELTON
 Attorney for the Defendant
 16

17
 18 Karen V. Andersen, RMR, CRR
 Circuit Court Reporter
 19
 20
 21
 22
 23
 24
 25

1 THE COURT: Mr. Renciu, I have four charges. You
2 are standing with your lawyer. He represents you on all of
3 these charges, sir?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Has he explained to you the punishment
6 for each of these charges?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Indictment -- and he's explained the
9 crime itself?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Indictment 2015-574 charges you with the
12 offense of possession of meth. Do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: He's explained that I could sentence you
15 to three years for that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: What is your plea?

18 THE DEFENDANT: Guilty.

19 THE COURT: Okay. Indictment 2015-308 charges you
20 with burglary second. Do you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And your lawyer has explained to you the
23 difference between burglary second and violent and
24 nonviolent?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Do you understand that for violent, I
2 could sentence you up to 15 years in jail?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And you understand it is considered a
5 serious offense?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you understand the significance of
8 that term?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: How do you plead?

11 THE DEFENDANT: Guilty.

12 THE COURT: Indictment 2013-1765 charges you with
13 burglary in the first degree. Do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And your lawyer explained to you the
16 nature of that offense and that that is a most serious
17 offense?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And he's also explained to you that it's
20 a nonparolable offense?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Do you understand the significance of
23 both of those terms?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: He's also told you it's a violent

1 offense?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you understand that I could sentence
4 you up to life in imprisonment for that with a minimum
5 sentence of 15 years?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: How do you plead?

8 THE DEFENDANT: Guilty.

9 THE COURT: Indictment 2013-1766 charges you with
10 another burglary second, but unlike the first one, this is a
11 nonviolent offense. Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Has your lawyer explained that I could
14 sentence you up to 10 years for that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: How do you plead?

17 THE DEFENDANT: Guilty, sir.

18 THE COURT: Are you totally satisfied with your
19 lawyer?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Any complaints about the way he's
22 handled your case?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Solicitor, there's a recommendation.

25 MR. McNEELY: Yes, Your Honor. The recommendation

1 is for 20 years. And the victim, one of the victims, is
2 present and would like to address Your Honor at the
3 appropriate time.

4 THE COURT: Sure. And the victims have been
5 involved in the negotiation?

6 MR. McNEELY: That's correct, Your Honor. The
7 victim, Mr. Bates; is present. Victim Mr. Calico (ph), I
8 believe it is, was notified and indicated that he wanted to
9 be present. However, he is not here today. And we've called
10 him several times and he has not answered.

11 THE COURT: Okay. Is that your understanding, sir,
12 of the recommendation?

13 THE DEFENDANT: Yeah.

14 THE COURT: 20-year recommendation.

15 MR. SHELTON: I believe it was a recommendation of
16 cap at 20, but they were going to ask for the 20.

17 THE COURT: I understand. Okay. Have you
18 investigated this matter fully on your client's behalf?

19 MR. SHELTON: Yes, Your Honor.

20 THE COURT: Have you shared the results of the
21 investigation with him?

22 MR. SHELTON: Yes, Your Honor.

23 THE COURT: He's indicated his desire to enter this
24 guilty plea?

25 MR. SHELTON: Yes, Your Honor.

1 THE COURT: Did you explain to him the rights that
2 he would be relinquishing and the consequences of his
3 decision?

4 MR. SHELTON: Yes, Your Honor.

5 THE COURT: And he fully understands and appreciates
6 both, in your opinion.

7 MR. SHELTON: Yes, sir.

8 THE COURT: Do you concur with his decision to enter
9 the guilty pleas?

10 MR. SHELTON: Yes, Your Honor.

11 THE COURT: Is that correct, sir?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: You understand that if I accept your
14 guilty pleas today, you will not have a jury trial in any of
15 these cases?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Do you understand if you had a trial,
18 the State would have to prove you guilty beyond a reasonable
19 doubt?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And now they're not going to have to do
22 that because you are admitting your guilt beyond a reasonable
23 doubt?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: If you had a trial, you would have a

1 chance to see and hear the witnesses and challenge their
2 testimony. Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: But that will not occur now. Do you
5 understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Also, you have a very important right,
8 and that's the right to remain silent. Do you realize that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And you are giving up that right by
11 answering my questions and admitting you are guilty.

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Is it your decision to give up these
14 constitutional rights?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And anyone threaten you in any way or
17 promise you anything?

18 THE DEFENDANT: No.

19 THE COURT: Do you understand that on Indictment
20 2013-1765, any sentence that I impose on that, you would
21 serve a minimum of 85 percent of that sentence?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And that you would be required to serve
24 a period of community supervision when you get out of two
25 years successfully? Do you understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And it, basically, is two years of
3 probation, but the only difference in this one and probation
4 is, if you violate it, you could be returned to jail for up
5 to one year at a time for the balance of the remaining
6 sentence. Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And just for the sake of discussion,
9 that means, for instance, if I were to accept the 20 years
10 recommendation of cap, you would have to serve 17 years of
11 that -- do you understand that? -- before you ever could be
12 released? That's 85 percent of that. Do you understand
13 that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And then you could be sent back three
16 times for up to a year until that three years is exhausted.
17 Do you understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: I could also give you a split sentence
20 with that and increase the amount of time that you would have
21 to serve, and the community supervision. Do you understand
22 that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: It's still your desire to go forward
25 with this guilty plea, correct?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Are you under the influence of any
3 alcohol or any medication here today, sir?

4 THE DEFENDANT: No, sir.

5 THE COURT: Have you consumed any alcohol or taken
6 any type of medication in the last 24 hours?

7 THE DEFENDANT: No, sir.

8 THE COURT: Have you been treated for any emotional
9 problems, any mental illness in the past?

10 THE DEFENDANT: No, sir.

11 THE COURT: Have you had sufficient time to talk to
12 your lawyer about this?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: It's your desire to go forward with this
15 plea today?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And your answers to my questions are
18 your answers, correct? They are not something that somebody
19 told you you need to say to "get through this"?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: They are your answers?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You really understand that I'm going to
24 be relying on your responses as being truthful and complete?

25 THE DEFENDANT: Correct.

1 THE COURT: And you want me to do that? You want me
2 to rely on your answers as being truthful and complete?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Tell me the facts, please.

5 MR. McNEELY: Thank you, Your Honor. I'm going to
6 go chronologically; keep it as brief as possible.

7 THE COURT: No problem.

8 MR. McNEELY: As for the meth charge, on July 15th,
9 2014, Berkeley County Sheriff's drug enforcement unit
10 conducted a search at [REDACTED] [REDACTED] [REDACTED] located in the Goose
11 Creek area of Berkeley County in regards to finding possible
12 items used in meth manufacturing. Search revealed a black
13 container containing clear plastic bag with white powder-like
14 substance, which field tested positive for methamphetamine
15 and returned from SLED as methamphetamine. Further
16 investigation revealed that it was defendant's
17 methamphetamine.

18 As for the burglary charges, on August 29th, 2013,
19 at [REDACTED] [REDACTED] [REDACTED] in Hamlet neighborhood in Goose Creek,
20 forced entry was made into a home. Several items, including
21 credit cards, jewelry and electronics were stolen. Credit
22 cards were later used to establish the defendant as a suspect
23 in that burglary. And he also later confessed to that
24 burglary.

25 On September 13th, 2013, forced entry was made into

1 another home located on [REDACTED], again in the
2 Hamlet subdivision of Goose Creek. At that time, jewelry,
3 credit cards, electronics and handguns were stolen from the
4 residence. Credit cards were likewise used to establish the
5 defendant as the perpetrator in that matter, as well as video
6 surveillance indicating the defendant to be the individual
7 responsible.

8 Finally, on September 19th, 2014, a burglary was
9 reported at Murphy's gas station in Moncks Corner. Forced
10 entry was made through a window. And lottery tickets and
11 cigarettes were stolen. The defendant, as well as his
12 co-defendant in that matter, was subsequently identified by
13 the lottery ticket serial numbers.

14 The victim, Mr. Bates, from one of the home
15 burglaries is present and would like to address Your Honor.

16 THE COURT: You said the Murphy's was September?
17 Indictment reads January 23rd, 2015.

18 MR. McNEELY: That might very well be correct, Your
19 Honor.

20 MR. SHELTON: It would have been September of 2014
21 with the Murphy's, Your Honor, because he was arrested
22 October of 2014.

23 THE COURT: I have August, burg' second, [REDACTED]
24 [REDACTED] I have [REDACTED], which is burg' first on
25 September 2013. And then I have January 2015, is what's in

1 the indictment, burg' second.

2 If you could get that, which one it is. The meth
3 was October 2014; just so we don't have an issue.

4 MR. McNEELY: I have the Murphy's date, incident
5 date as September 19th, 2014.

6 THE COURT: September 19th, 2014?

7 MR. McNEELY: '14.

8 THE COURT: We need to change that. Any problem
9 with my making that change in the indictment? Everybody knew
10 that was the date. This is a typographical error then?

11 MR. SHELTON: Yes, Your Honor.

12 THE COURT: September the 14th?

13 MR. McNEELY: 19th.

14 THE COURT: 19th, 2014. Okay. Thank you, yes.

15 Happy to hear from you. Well, just one second.

16 The factual recitation by the solicitor, are those
17 facts correct, sir, about what transpired on each crime?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Okay. I will be happy to hear from you,
20 to hear from the victims.

21 MR. BATES: Your Honor, I'm here present to express
22 how this incident impacted my wife and my life. Mine was the
23 burg' first, [REDACTED]. And still today, I still
24 have -- I'm still traumatized to even sleep at night.

25 I wanted to express when this first incident

1 happened, my wife and I were on our honeymoon. We had to cut
2 that short with a call from the police department. We came
3 home. Of course, we had to go through the procedures to
4 recover, do the insurance and my credit cards. People had a
5 lot of fun in the mall purchasing items on our expense. But
6 we got that recovered.

7 THE COURT: Good.

8 MR. BATES: But today, it still effects us. We made
9 calls. Let's just say this. We put sticks or boards on to
10 our doors for extra security. We've locked our bedroom door.
11 We put a lock on it so we can have extra lock on our door to
12 sleep at night. We've called the police department because
13 we thought we had heard something. But this is a continual
14 thing. And it's really changed our lives.

15 THE COURT: I know.

16 MR. BATES: Before we felt secure in our home. Our
17 safety was our home. And today it's not the same.

18 THE COURT: Mr. Bates, I've been a lawyer for 21
19 years. I've been a judge now for over 21 years too. It's
20 the one crime that I have consistently made this statement.
21 And what you've just said just simply personifies exactly
22 what I've been saying. The crime itself, the punishment is
23 fine. But in the punishment, I wish giving him life would
24 restore you your sanctity of your home, but it won't.

25 The bottom line is, there's nothing that someone can

1 do. And it's one of the few crimes that -- it's why I'm
2 glad, and I agree totally with a minimum sentence on a burg'
3 first of 15 years. Because that is a very -- to me, that's a
4 small amount of time when you've taken what you've taken from
5 somebody. Has nothing to do with property. It has to do
6 with destroying what I think is the last sanctuary for
7 anyone. Our home should be our sanctuary.

8 We have another one. We saw what happened to that
9 sanctuary last week. And that's equally tragic. But our
10 homes deserve to be a place where we feel comfortable and
11 safe. Not so. So I understand that, sir. I clearly
12 understand that.

13 MR. BATES: I do want to say one other thing, is
14 that I forgive him.

15 THE COURT: Well, that's a marvelous statement.
16 It's something I've spoken in my church. I had to do
17 something Sunday. I had to lead the prayers. And I talked
18 about what happened last week. And I sort of said, I'm in
19 the boat with the last lady that spoke. I'm a work in
20 progress. I can't say that I can totally forgive him yet,
21 but -- because I'm mad as you know what. And I appreciate
22 that. That's positive for you and your wife. And I wish you
23 both well and some peace in your homes. Thank you.

24 MR. BATES: Thank you for having me.

25 THE COURT: You bet.

1 All right. You've answered all of my questions.

2 You've understood them all?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And this is your decision?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: I find the plea to be freely,
7 voluntarily, knowingly and intelligently made and entered. I
8 find that he's had the benefit of very competent counsel with
9 whom he's indicated he's satisfied.

10 I will be happy to hear from you now, Mr. Shelton.

11 MR. SHELTON: Thank you, Your Honor. May it please
12 the Court. And his father, Eugene, is also in the courtroom.
13 And I know he wants to address Your Honor.

14 THE COURT: Thank you, sir. I'm glad you are here
15 too, sir. And I understand, as was said and received some
16 criticism, but we don't need to get into that, whether he
17 should or shouldn't have said it. But there's no question,
18 there are victims on both sides of any crime. The victims
19 themselves and there are victims, the family. Because this
20 isn't what -- I'm a father. I'm a grandfather. And I
21 wouldn't want that for my children. But we understand we are
22 where we are and it is what it is. But thank you for being
23 here, sir.

24 MR. SHELTON: Radu has served 480 days. Your Honor,
25 he's 30 years old. He's going to turn 31 -- he's young.

1 He's going to turn 31 in four days. He's very young, Your
2 Honor.

3 I've had this case since September of 2013. And at
4 that point in time, Radu, when he was first suspected of
5 this, he gave a full statement to the police. And they let
6 him go. He admitted to a burglary in his statement and they
7 let him go. They came back to his house. He was right
8 there. And he went with them voluntarily. And they asked
9 more statements -- or asked more questions, and he admitted
10 to the second burglary. And then he admitted to what would
11 be considered a burglary first based off their specific
12 questions. So, he confessed to it. He was forthright. He
13 was forthcoming.

14 There was a co-defendant in those first two
15 burglaries. The co-defendant was arrested because of Radu's
16 statement and did plea and received a probationary sentence.
17 I don't think he had a record, if minimal record, Your Honor.

18 And at that point in time, Mr. Dejeu had the case.
19 And Mr. Dejeu made him an offer that would have given him the
20 opportunity of having probation. He checked into the STRONG
21 program and he was accepted into the STRONG program. He then
22 bonded out of jail.

23 Mr. Daju left the office. And it was in a little
24 bit of a holding pattern at that time. He stayed in great
25 contact with me those four and a half months -- well, out of

1 four and a half months he was out of jail, three and a half
2 months he stayed in really good contact. He was calling me
3 every other day, every other week.

4 And then the addiction that he was addicted to that
5 led to the first part, I suspected was coming back into play.
6 And it did. And it was the meth.

7 He was also with the co-defendant in the one with
8 the gas station. So all these had co-defendants. The drugs,
9 it was a whole group of people. And they found it up by an
10 air conditioner and he was there. So he's always been
11 involved with somebody else in all of this, Your Honor.

12 He was forthcoming. He was on video at the gas
13 station. So, really, as far as the evidence, the State had
14 all the evidence. And I tried all kinds of different --
15 offered different things. Tried to -- different type of
16 offers to try to get him -- he knew he had to go to prison
17 once the second arrest. He knew that there was a large
18 amount of time that he had to go to prison.

19 We just tried different opportunities to try to also
20 get him the help that was necessary afterwards. But he's
21 where he is. He knows that. And he's accepting it. And
22 he's always been forthcoming and willing to come forward and
23 plea in front of the Court, Your Honor, and admit to his
24 mistakes. He admitted the night he was picked up from the
25 police. He admitted those mistakes and always has.

1 I never really got to know Radu while he was on the
2 drugs. I've only seen him since he's been off, in jail,
3 clean. And he just doesn't seem the type of person -- he
4 comes across soft-spoken, Your Honor. He's always been that
5 way with me. He's bigger in stature, but he doesn't act that
6 way. And he's always -- I asked the solicitor to actually
7 meet him to see if we can work out a better deal because I
8 was that -- I trusted him enough that if he met him, he
9 wouldn't think of him as this monster, as this person that
10 has these charges against him, because they are very serious
11 charges. And he knows that. And he committed those serious
12 charges. But he's not the -- it doesn't fit him, but he did
13 it. And he was also -- he was under the influence, but he
14 committed the charges, Your Honor. He committed the
15 offenses.

16 I'm asking Your Honor for the 15 years, the minimum.
17 He will have to do at least 12, 12 1/2 of that. He's going
18 to be in there for a significant amount of time. It's going
19 to be all his 30s. And I know if he comes out, he's got the
20 serious strike. He's got a most serious strike. And if he
21 picks up anything else, it's life without parole, no
22 question.

23 So I would ask Your Honor to consider the 15 years.
24 There was something that STRONG seen in him, that they can
25 help him out. I do think that type of person is there. He

1 can be helped out. I think he can be a productive citizen at
2 some point in time. He's got to serve the time. He's got to
3 go through his punishment, Your Honor. And he understands
4 that. And that's why he's here and he's accepting that, Your
5 Honor. I know he wants to address Your Honor and I know his
6 dad does.

7 THE COURT: Let me ask you a question. He was
8 admitted to the STRONG program during the pendency of all of
9 this.

10 MR. SHELTON: They require the case to be --

11 THE COURT: So it was accepted but not started?

12 MR. SHELTON: Yes, Your Honor. They require the
13 case to be resolved.

14 THE COURT: Okay. I will be happy to hear from the
15 father first. Give me your full name, please, sir.

16 EUGENE RANCIU: Good morning.

17 THE COURT: Good morning, sir.

18 EUGENE RANCIU: Thank you for giving me your time.
19 Your Honor, my son is not that bad. He did bad things. I
20 will ask you if you can have a little mercy. I want to have
21 him home before I go because, you know, I'm sick. And I
22 know -- and I apologize to the people that he did the bad
23 things. I know their feelings because we've been three times
24 in this same situation. I understand it perfect. And it's
25 nothing that I can do.

1 I did a lot. I teach him a lot. And I think he
2 wants to be in the level with everybody. You know, he was
3 jealous of me because I was making good money working. But I
4 told him, I said, it took me 21 years in the company. You've
5 got to go step by step. He probably understand, you know, he
6 can make an easy life or something. I don't know. But if
7 you consider that he deserve a little mercy, I will
8 appreciate it, sir.

9 THE COURT: Okay.

10 EUGENE RANCIU: And with your permission, I will go
11 on.

12 THE COURT: Thank you, sir. What is his name.

13 MR. SHELTON: Eugene Renciu.

14 THE COURT: Mr. Renciu, Radu, happy to hear from
15 you.

16 THE DEFENDANT: Your Honor, I would like to place
17 myself at the mercy of the Court, Your Honor. And I feel bad
18 about the stuff that I did. And I would like to give my
19 sincere apology to the victims and their families. And I
20 just ask for another chance to get out and have a family and
21 become a better man from the mistakes I've made. I ask you
22 this in good faith. Thank you, sir.

23 THE COURT: Okay. Well, Mr. Renciu, I think you've
24 heard me express my feelings to Mr. Bates. And they are my
25 sincere feelings. One thing I saw early on that I believe I

1 have responsibility to do what I can to protect. And by
2 protect, that means punish. And the sentence has -- it's
3 multi-faceted. One is to punish. One is to afford some
4 retribution. One is to deter others. And when you do it,
5 how do you fashion that? What do you do?

6 And I will tell you now, I spoke to somebody about
7 two, three months ago, that in 21 years, it's probably still
8 the most difficult thing that we have to do, is to fashion a
9 sentence that's just fair to both sides. That's -- I'm a
10 human being. I try to do the best I can.

11 But there are two areas that I'm going to -- and
12 your lawyer told you, and he was right when he said you are
13 going to have to do some time for this crime. This and small
14 children -- sorry, that's one of them -- that's where I'm
15 going to draw lines.

16 But the State, the legislature did too. They drew
17 lines too. You can't suspend. You can't have any
18 probationary sentence for first offense. I'm going to do
19 this.

20 Sentence of the Court on Indictment 2015-574 is one
21 year. I will give you credit for one year jail time.

22 Sentence of the Court on 2013-776 is 10 years.
23 That's the burglary second nonviolent, and give you credit
24 for 480 days. That's concurrent.

25 2015-308 is 15 years. I'll give you credit for 480

1 days, and it's concurrent.

2 Sentence of the Court on the burg' first, and this
3 is intentional, because I'm going to give you somewhat of a
4 break in the sense that I'm going to accept you are truly
5 sorry for what you did.

6 Years ago I saw the movie "Traffic". And I came
7 away with the concept that all we are doing with drugs is
8 fighting a losing war. It's probably the worst war we've
9 lost in our lifetime in this country. There's no way to stop
10 people from using drugs if they want to use drugs. I wish
11 people could understand that, but we can't make them not do
12 that.

13 So I started asking people in burglary situations:
14 If somebody gave you your drugs, would you have broken in the
15 house? And he looked at me kind of funny and said no. I
16 said, then what are we doing? What is this? Why are we
17 doing this to society? Why not create a drug house. If you
18 want to go there, just go there and blow your mind away, if
19 that is what you want to do.

20 But what you do is, you break in -- I know why you
21 broke in. You broke in to get money and stuff so you could
22 get other drugs and have your funds to spend things and do
23 the things. And your dad is probably right. You wanted to
24 be in the fast lane without paying the price.

25 I hope you are going to learn something from this,

1 but I'm going to find out. And the sentence structure is I'm
2 going to accept it somewhat, the recommendation.

3 The sentence is you be committed to the Department
4 of Corrections for a term of 30 years, provided -- I'm going
5 to suspend that upon the service of 18 years. And that's
6 intentional, because now we have, according to my math, that
7 will be about 15 -- let's see. That's going to be 15 years
8 that you could be returned in increments of one year at a
9 time.

10 So he's got to do a two-year period, but if he
11 messes up, we've got 15 years we can send him back if we have
12 to until you get it straight. Okay?

13 So good luck to you, sir. Thank you.

14 MR. SHELTON: Thank you, Your Honor.

15 THE COURT: I give him credit on 480 days on that
16 sentence as well.

17 MR. SHELTON: Thank you, Your Honor.

18 THE COURT: And it's concurrent.

19 (Whereupon, proceedings are adjourned.)
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CERTIFICATE OF REPORTER

I, Karen V. Andersen, Registered Merit Reporter,
Certified Realtime 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
Transcript of Record of the proceedings.

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

Witness my hand, I have hereunto affixed my official
seal this 25th day of August, 2016, at Charleston, Charleston
County, South Carolina.



Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter
My Commission expires:
September 14, 2016

FORM 5

STATE OF SOUTH CAROLINA)
)
 County of Berkeley)
)
Radu Renciu # 348233)
 Full name and prison number (if any) of Applicant)

IN THE COURT OF COMMON PLEAS

2016-CP-08-1385

v.

State of South Carolina)
)
)
)
)
)
)
)

APPLICATION FOR
POST-CONVICTION RELIEF

2016 JUN 24 PM 2:23
 MARY P. BROWN
 CLERK OF COURT
 BERKELEY COUNTY, SC
 FILED

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear 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 Inst.
990 Wisaky Highway, Bishopville, SC 29010
2. Name and location of Court which imposed sentence Berkeley County
General Sessions.
3. Name(s) of co-defendant(s) (if any) Michael Lewandowski,
Joshua Jordan
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2013G50801765
 - (b) 2013G50801766

(c) 2015G80800308

- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 6-24-2015 30yrs suspended to 18yrs
 - (b) _____
 - (c) _____

- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty ✓
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____

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

- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. _____
 - ii. N/A
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. _____
 - ii. N/A
 - iii. _____
 - (c) the date of each such result:
 - i. _____
 - ii. N/A
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. N/A
 - iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:
 (a) Counsel told me I had no right to appeal.

- (b) _____
- (c) _____

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) Failure To Honor Plea deal
- (c) Invalid Guilty Plea

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

- (a) Counsel Failed to ensure court accepted deal Rehab
- (b) Trial court sentenced me above agreement
- (c) Involuntary Guilty Plea based on counsel advice

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

- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

(c) the disposition thereof:

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

N/A

(d) the date of each such disposition:

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

N/A

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

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

N/A

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. _____
- iv. _____

N/A

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

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

N/A

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

- (a) _____
- (b) _____
- (c) _____

N/A

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

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

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

- (a) the name and address of each attorney who represented you:
 - i. Chad Shelton
Public Defender
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. _____
 - ii. _____
 - iii. _____

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

Reconsideration of sentence Reflecting; Either :
(1) The "STRONG PROGRAM" with Probation OR
(2) 15 years or less Incorporating the "STRONG PROGRAM"
and credit for time already served.

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

NO

STATE OF SOUTH CAROLINA)
County of Berkeley)

VERIFICATION

I, Radu Renciu, 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 at this time for vacating, setting aside or correcting the convictions and sentence attacked in this application; and that the matters and allegations therein set forth are true and correct.

Radu Renciu

6/27/2016

SWORN to and subscribed before me this 21 day of June 2016

Debra Eastudag (L.S.)
Notary Public

My Commission Expires: 3/3/2020

FILED
2016 JUN 24 PM 2:23
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

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

I, Radu Rencu # 348233, hereby apply for leave to proceed in this action without prepayment of fees or costs or security thereof. In support of my application I declare under penalty of perjury that the following facts are true:

- (a) I am the applicant in this action and I believe I am entitled to redress.
- (b) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Radu Rencu
Applicant 6/21/2014

SWORN or affirmed to and subscribed before me this

21 day of June 2014

Lee Corr., Inst.,
990 Wisacky Highway
Bishopville, SC 29010-1775

Debra Eastridge
Notary Public

My Commission Expires: 3/3/2024

FILED
 2016 JUN 24 PM 2:23
 MARY P. BROWN
 CLERK OF COURT
 BERKELEY COUNTY, SC

Failure to Advise

Trial counsel received an offer from the state but failed to inform applicant of offer until after it expired. Counsel had an obligation to properly notify applicant of this information and in failing to do so deprived the applicant of a favorable offer.

Furthermore, trial court did not accept the fact that applicant was accepted into a Drug Rehab. and when it was known too Prosecution. Defense applicant had a drug problem and needed treatment. Counsel failure to inform court and Prosecution was below standards. Not only does counsel have to inform about deal but also inform court of acceptance into program and notify state and ensure state will make this part of deal.

Once court rejected defendant request, it denied defendant of opportunity for rehabilitation. When individual as herein commits crime to support drug habit, the court failed to consider alternative for prison to assist with drug habit. The court did not fairly consider my need for treatment and these mitigating factors should have been considered but was not. Therefore, guilty was not intelligently considered when the counsel informed court not about drug rehab acceptance but of my remorse only and

Court and counsel did not discuss this right to counsel was violated

STRONG

SUSTAINING. TEACHING. REBUILDING OUR NEW GENERATION
2510 N. Hobson Avenue, North Charleston, South Carolina 29405
843.554.5179 (P) 843.554.5182 (FAX)
southcarolinastrong.org

December 17, 2013

Mr. Radu Renciu
Hill Finkley Detention Center
300 California Avenue
Moncks Corner, SC 29461

RE: Radu Renciu DOB: 6/28/1984

To Whom It May Concern:

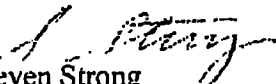
This letter is to confirm we have interviewed Radu Renciu for acceptance into South Carolina STRONG. SC STRONG is a residential educational organization for former alcoholics, drug addicts and convicts. We are located in North Charleston and require a two-year commitment.

After speaking with Radu, we have decided we could help him turn his life around and become a productive and responsible citizen. We realize this is a risk and offer no guarantees. However, he did express a sincere desire to make some changes and we are willing to help. SC STRONG tentatively accepts Radu, pending any unknowns found during the final interview at our facility the day of entry.

In addition, Radu must have all medical clearances and legal matters cleared before entering SC STRONG.

If you have any questions, please feel free to give me a call. We look forward to a difficult but exciting process of change with Radu Renciu.

Sincerely,


Steven Strong

Facility Director

(843) 554-5179 (no collect calls, please)

State of South Carolina
County of BERKELEY

In the Court of General Sessions

Indictment No. (s)

2013-GS-08-01765, 2013-GS-08-01766,
2015-GS-08-00308

STATE OF SOUTH CAROLINA

vs.

RADU RENCIU

Petition for
Reconsideration of
Sentence.

To: Honorable Judge Dennis;
WILL YOU PLEASE TAKE NOTICE, that the Defendant
in the that above Captioned Matter will move PRO SE,
by this Petition, before the Presiding Judge of
the 9th Judicial Circuit, and request RESPECTFULLY
for reconsideration of sentence, The Defendant will
request for a reduction of sentencing, Defendant requests
for a reduction of 3 years..

By: Radu Renciu

Radu Renciu S.C.D.C. # 348233
Riverview/K&E Center #F3-222
4344 Broad River Rd.
Columbia S.C 29910

cc out to Clerk of Court

July 3rd, 2015

MONDAY

(Table Note)

COPY

1 of 1

BERKELEY COUNTY PUBLIC DEFENDER, INC.

219 N. HWY. 52, SUITE E, POST OFFICE BOX 1687
MONCK'S CORNER, SOUTH CAROLINA 29461
(843) 899-2777 • FAX (843) 899-2701

May 4, 2016

Radu Renciu #348233
Lee C.I. F4B2240
990 Wisacky Hwy
Bishopville, SC 29010

Dear Radu:

Enclosed is a copy of the letter you received from SC Strong. I do not provide emails between myself and the solicitor, as I believe that to be attorney work product and not a part of the client's file. If however, you have filed an action against me (i.e. PCR hearing) and a judge orders it to be given to you or your attorney, I would be happy to provide the correspondence. If you have any specific questions, I have nothing to hide and will answer your question to the best of my ability. If you need anything else that is a part of your file, let me know.

Sincerely,



Chad D. Shelton,
Assistant Public Defender

COPY
1 of 1

STATE OF SOUTH CAROLINA

IN THE COUNTY OF GENERAL SESSIONS

COUNTY OF BERKELEY
STATE VS.

RADU RENCIU

AKA: Radu Eugene Renciu
Race: White Sex: M Age: 30

DOB: [REDACTED]
Address: [REDACTED]
City, State, Zip: Summerville, SC 29485-5348

DL# [REDACTED] SID# SC01762905

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was

INDICTMENT/CASE#: 2013GS0801765
A/W: 2013A0820200650
Date of Offense: 08/29/2013
S.C. Code §: 16-11-0311
CDR Code #: 0079

SENTENCE SHEET

CONVICTED OF or PLEADS

TO: Burglary First Degree
In violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

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

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

ATTEST: [Signature] 100788
E. Mason West, Assistant Solicitor SC Bar # [REDACTED]
[Signature] Defendant
[Signature] Attorney for Defendant 76247 SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of 18 days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 480 days
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

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

Other: _____

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

Clerk of Court/Deputy Clerk: K. Mills
Court Reporter: Helen Anderson

Presiding Judge: [Signature]
Judge Code: 2060
Sentence Date: 6/27/13

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY
STATE VS.

RADU RENCIU

AKA: Radu Eugene Renciu
Race: White Sex: M Age: 30
DOB: [REDACTED] SS#: [REDACTED] 27
Address: [REDACTED]
City, State, Zip: Summerville, SC 29485-5348
DL# [REDACTED] SID# SC01762903

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS0800308
A/W: 2015A0820200081
Date of Offense: 09/19/2014
S.C. Code §: 16-11-0312(B)
CDR Code #: 0086

SENTENCE SHEET

*CDI. Yes No CMV Yes No Hazmat Yes No

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

TO: Burglary Second Degree (Violent)
In violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086

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

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

ATTEST:

E. Mason West 100788 [Signature] [Signature] 76247
E. Mason West, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 180 days

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

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

SPECIAL CONDITIONS:

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

Set by SCDPPPS Attend Voc. Rehab. Or Job Corp.

Recipient: May serve W/E beginning

*Fine: \$ Substance Abuse Counseling

§14-1-206 (Assessments 107.5%) \$ Random Drug/Alcohol Testing

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ pmts. of \$ Beginning

§56-5-2995 (DUI Assessment) \$12 \$ \$ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ Other:

Proviso 47.9 (Public Def/Prob) \$500 \$

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$

§50-21-114 (BUI Breath Test Fee) \$50 \$

§56-5-2942(J) (Vehicle Assessment) \$40/veu \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

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

TOTAL \$ 133.90

Clerk of Court/Deputy Clerk: K. Mills

Court Reporter: Nancy Anderson

Presiding Judge: [Signature]

Judge Code: 20607

Sentence Date: 10/24/15

[Signature]
2 of 3

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY
STATE VS.

RADU RENCIU

AKA: Radu Eugene Renciu
Race: White Sex: M Age: 30

DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Summerville, SC 29485-5348

DL# [REDACTED] SID# SC01762905

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
TO: Burglary Second Degree (Violent)

In violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086

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

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

ATTEST: E. Mason West 100788 Defendant [Signature] Attorney for Defendant [Signature] 76247 SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 480 days
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

Set by SCDPPPS _____

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

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: K. Mills
Court Reporter: Hanan Anderson

Presiding Judge: [Signature]
Judge Code: 2060
Sentence Date: _____

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF BERKELEY
STATE VS.

RADU RENCIU

AKA: Radu Eugene Renciu
Race: White Sex: M Age: 30
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Summerville, SC 29485-5348
DL# [REDACTED] SID# SC01762905

INDICTMENT/CASE#: 2013GS0801766
A/W: 2013A0820200651
Date of Offense: 08/29/2013
S.C. Code §: 16-11-0312
CDR Code #: 0080

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Burglary Second Degree (Non-Violent)
In violation of § 16-11-0312 of the S.C. Code of Laws, bearing CDR Code # 0080

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

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

ATTEST: [Signature] 100788 [Signature] 76247
E. Mason West, Assistant Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 480 days
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

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

Appointed PD or appointed other counsel. §47.12 requires \$500 be paid to Clerk during probation.
Presiding Judge: [Signature]
Judge Code: 20602
Sentence Date: 6/24/15

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY
STATE VS.

RADU RENCIU

AKA: Radu Eugene Renciu
Race: White Sex: M Age: 30
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Summerville, SC 29485-5348
DL# [REDACTED] SID# SC01762905

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015-GS-08-00574
A/W: 2014A0810401164
Date of Offense: 10/06/2014
S.C. Code §: 44-53-0375 (A)
CDR Code #: 3009

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was

CONVICTED OF or PLEADS

TO: Poss Meth/Crack 1st
In violation of § 44-53-0375 (A) of the S.C. Code of Laws, bearing CDR Code # 3009

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

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

ATTEST: [Signature] 100788 Defendant [Signature] Attorney for Defendant 76247 SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 1 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 1 year
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment
Total: \$ _____ plus 20% fee: \$ _____ Obtain GED
Payment Terms: _____ Attend Voc. Rehab. Or Job Corp. _____
 Set by SCDPPPS _____ 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

Recipient: _____	\$ _____
*Fine: _____	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
Proviso 47.9 (Public Def/Prob)	\$500 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150 \$ <u>150.00</u>
§50-21-114 (BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
Proviso 90.5 (SCCJA Surcharge)	\$5 \$ <u>5.00</u>
3% to County (if paid in installments)	\$ \$ <u>8.40</u>
TOTAL	\$ <u>288.40</u>

Other: _____

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

Clerk of Court/Deputy Clerk: K. Mills
Court Reporter: Rosen Anderson

Presiding Judge: [Signature]
Judge Code: 2060
Sentence Date: 10/24/15

STATE OF SOUTH CAROLINA)
 COUNTY OF BERKELEY)
)
 Radu Renciu, SCDC No. 348233,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2016-CP-08-1385

RETURN

FILED
 17 JUN 29 PM 12:30
 MARY P. BROWN
 CLERK OF COURT
 BERKELEY COUNTY, S.C.

Respondent ("the State"), making its Return to the application for post-conviction relief filed on June 24, 2016, would respectfully show this Court:

I.

Radu Renciu ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. During its December 2013 term, the Berkeley County Grand Jury indicted Applicant for first-degree burglary (2013-GS-08-1765) and second-degree burglary (non-violent) (2013-GS-08-1766). Thereafter, during its March 2015 term, the Berkeley County Grand Jury indicted Applicant second-degree burglary (violent) (2015-GS-08-0308). The Berkeley County Grand Jury also indicted Applicant for possession of methamphetamine (2012-GS-08-0574). Chad D. Shelton, Esquire, represented Applicant. Assistant solicitor Wilton McNeely, Esquire, prosecuted the case. On June 24, 2015, Applicant appeared before the Honorable R. Markley Dennis, Jr., circuit court judge, and pled guilty as indicted to all four offenses. Judge Dennis sentenced Applicant to a term of thirty years' imprisonment suspended upon the service of eighteen years imprisonment for first-degree burglary, to a concurrent term of ten years' imprisonment for second-degree burglary (non-violent), to a concurrent term of fifteen years' imprisonment for second-degree burglary (violent), and a

concurrent term of one years' imprisonment for possession of methamphetamine. Applicant did not appeal his convictions or sentences.

II.

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

1. "Ineffective Assistance of Counsel"
 - a. "Counsel failed to ensure court accepted drug rehab."
2. "Failure to honor plea deal"
 - a. "Trial court sentenced me above agreement."
3. "Invalid Guilty Plea"
 - a. "Involuntary guilty plea based on counsel advice."

Attached to this Return and incorporated by reference are the records of the Berkeley County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

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

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove that counsel's

performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, 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, an 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 (1985).

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

IV.

Applicant asserts his plea was involuntary. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing

(1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56. Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, at 137-38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). "In considering an allegation

on post-conviction relief that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing.” Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant’s plea. However, allegations regarding the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper, 279 S.C. 264, 305 S.E.2d 247.

V.

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

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to

Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VI.

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

VII.

WHEREFORE, Respondent requests an evidentiary hearing be held on the claims of ineffective assistance of plea counsel and involuntary guilty plea.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: *Megan Harrigan Jameson*
ATTORNEYS FOR RESPONDENT

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

6/27, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BERKELEY)
)
 RADU RENCIU,)
 S.C.D.C. No. 348233,)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

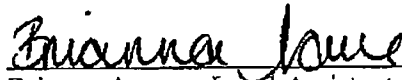
2016-CP-08-1385

AFFIDAVIT OF SERVICE BY MAIL

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

Lance S. Boozer, Esquire
807 Gervais Street, Suite 203
Columbia, South Carolina 29201

DATED this 27th day of June, 2017.


 Brianna Arnone, Legal Assistant
 For Respondent

	I N D E X	PAGE
1		
2	POST-CONVICTION RELIEF HEARING	3
3		
4	<u>WITNESS</u>	
5	<u>RADU RENCIU</u>	
6	DIRECT BY MR. BOOZER	6
7	CROSS BY MS. COLEMAN	12
8		
9	<u>CHAD SHELTON</u>	
10	DIRECT BY MS. COLEMAN	18
11	CROSS BY MR. BOOZER	26/35
12	REDIRECT BY MS. COLEMAN	30/39
13		
14		
15		
16	CLOSING ARGUMENT:	
17	BY MR. BOOZER	31
18	BY MS. COLEMAN	40
19		
20		
21	<u>DEFENDANT'S EXHIBIT</u>	
22	1-e-mails	38
23		
24	CERTIFICATE OF REPORTER	45
25		

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(The following proceedings were held
December 4, 2017 Berkeley County, South Carolina, @
10:10 a.m.)

THE COURT: Ms. Coleman, you are
recognized.

MS. COLEMAN: Thank you, Your Honor.
This is Radu Renciu versus the State of South
Carolina, docket number 2016-CP-08-1385. Applicant
is presently confined in the South Carolina
Department of Corrections pursuant to order of
commitment of the Berkeley County Clerk of Court.

During its December 2013 term the
Berkeley County grand jury indicted applicant for
first degree burglary and second degree burglary
nonviolent. Thereafter during its March 2015 term
the Berkeley County grand jury indicted applicant
for second degree burglary violent. The Berkeley
County grand jury also indicted applicant for
possession of methamphetamine. Chad Shelton
represented applicant on the charges. Assistant
solicitor Wilton McNealy prosecuted the case.

On June 24th, 2015, applicant appeared
before the Honorable R. Markley Dennis, Jr. and
pled guilty as indicted to all four offenses.
Judge Dennis sentenced applicant to a term of

1 30 years imprisonment suspended upon the service of
2 18 years imprisonment for first degree burglary, to
3 a concurrent term of ten years imprisonment for
4 second degree burglary nonviolent, a concurrent
5 term of 15 years imprisonment for second degree
6 burglary violent and a concurrent term of one year
7 of imprisonment for possession of methamphetamine.
8 Applicant did not appeal his conviction or
9 sentence.

10 Applicant filed a timely application
11 for post-conviction relief on June 24th, 2016,
12 alleging that he was being held in custody
13 unlawfully based on the following allegations:
14 Ineffective assistance of counsel, failure to honor
15 the plea deal, invalid guilty plea based on
16 counsel's advice.

17 The State filed its return on
18 June 24th, 2017, and he is present today and
19 represented by Mr. Lance Boozer.

20 THE COURT: Mr. Boozer, you are
21 recognized.

22 MR. BOOZER: Thank you, Your Honor.
23 May it please the Court, Judge, just for part of
24 the record and providing some direction as to what
25 my client is requesting, here in a little bit

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testimony obviously is going to be presented from my client. His position in this case is that there was a plea offer which he accepted or was trying to accept early on sort of in this case. And ultimately that offer was revoked, either revoked by the solicitor or went away or it wasn't offered again.

And his position is he wanted to accept the first offer and that's all he is asking this Court to do, is allow him to go back and accept that first plea offer. He's not requesting a new trial or anything like that. The only thing he is requesting is to be able to accept that first offer and, Judge, we would go ahead and call the applicant to the stand.

THE COURT: All right. Mr. Renciu, please come forward.

RADU RENCIU

having been duly sworn, testifies as follows:

THE CLERK: Please state your name for the record and spell your last name.

THE WITNESS: Radu Renciu, last name is R-E-N-C-I-U.

THE CLERK: Please be seated.

DIRECT EXAMINATION

1 BY MR. BOOZER:

2 Q. Mr. Renciu, how are you today?

3 A. Doing all right.

4 Q. All right. If you would, I appreciate
5 you leaning toward that microphone. Just keep your
6 voice up so that everyone hear you, okay?

7 A. Yes, sir.

8 Q. All right. Mr. Renciu, do you know
9 what it is that you're doing here today? Why we're
10 here?

11 A. That's correct.

12 Q. Okay. What have you filed to get into
13 court today?

14 A. A PCR application.

15 Q. And tell the Court what it is that you
16 are currently incarcerated for?

17 A. Burglary first, burglary second,
18 possession of methamphetamine.

19 Q. Of methamphetamine?

20 A. Yes, sir.

21 Q. Okay.

22 A. First time.

23 Q. Did you enter a plea to all those
24 charges?

25 A. With a cap, yeah.

RADU RENCIU-DIRECT EXAMINATION BY MR. BOOZER

1 Q. Ultimately what was the sentence that
2 you were given?

3 A. Thirty years suspended to 18. I
4 entered a plea for 15 with a cap of 20.

5 Q. Okay. So ultimately you got a 30-year
6 sentence suspended to 18?

7 A. Yes, sir.

8 Q. For all those charges?

9 A. Yes, sir.

10 Q. All right. Who represented you for
11 purposes of those charges?

12 A. Mr. Chad Shelton.

13 Q. All right. Now, in your application
14 you have got that your lawyer failed to insure the
15 Court accepted drug rehab and also that there was a
16 failure to honor a plea deal and the Court
17 sentenced you above the agreement, there's two
18 separate claims, and that your plea was
19 involuntarily entered based on your lawyer's
20 advice. Who represented you -- excuse me -- tell
21 the Court a little bit about the plea offers that
22 were being made and sort of walk the Court through
23 from the beginning if there were some initial
24 offers and what you were trying to
25 accept.

1 THE COURT: Let me interrupt just one
2 moment. What was the offer plea, offer itself?

3 Q. That's what I'm asking.

4 A. The plea offer was 15 years burglary
5 second 65 percent violent.

6 Q. And who relayed that offer to you? Did
7 Mr. Shelton tell you about that?

8 A. Not to the full extent. The very next
9 day I bounded out and I was in a different county.

10 Q. Okay. So --

11 A. Never got in touch to it again.

12 Q. So did he tell you that this offer was
13 out there, then you bonded out? Is that what you
14 are saying?

15 A. Yes, sir.

16 Q. Okay. What -- did you want to accept
17 that offer?

18 A. Yes, sir.

19 Q. All right. Did you have any
20 communication with Mr. Shelton about accepting that
21 offer?

22 A. Not after I bonded out the next day.
23 There was no until I got rearrested again.

24 Q. Why didn't you have any communication
25 with Mr. Shelton at that point?

RADU RENCIU-DIRECT EXAMINATION BY MR. BOOZER

1 A. Because I went to the other county.
2 Then I was gone.

3 Q. Do you know if Mr. Shelton tried to
4 contact you at all while you were at that other
5 county?

6 A. I am not 100 percent sure.

7 Q. How much time passed between the time
8 you bonded out and the time you were rearrested?

9 A. About a year.

10 Q. About a year?

11 A. About a year.

12 Q. Did you speak with Mr. Shelton at all
13 during that period of time?

14 A. No, because I moved out to a different
15 place.

16 Q. But you were wanting to accept that
17 offer?

18 A. That's correct, sir.

19 Q. Okay. In anticipating the State is
20 going to ask this question I will go ahead and ask
21 you. Why didn't you try and call up Mr. Shelton
22 and say hey, I want to take this offer?

23 A. Because I didn't really know the full
24 extent of it at the time. I just -- you know, I
25 just bonded out. I didn't know.

1 Q. Okay. When you got rearrested did Mr.
2 Shelton represent you on those new charges?

3 A. Yes, sir.

4 Q. Did you have any discussion with him
5 about that first plea offer after you were
6 rearrested?

7 A. No, I never heard nothing about it. It
8 was off the thing, it was off the page.

9 Q. When you say it was off the page, you
10 mean it was no longer available?

11 A. Exactly.

12 Q. Okay. Why do you know that?

13 A. Because they tried to give me a life
14 sentence. Before I got approved to the South
15 Carolina Strong Program, and I mentioned that I was
16 going there and that didn't work out. Then I was
17 getting a life sentence and then finally a new plea
18 came out 15 with a cap of 20. So I had to take
19 that. If not I was going to get a life sentence
20 and get sent back twice, basically come to court
21 for one charge and then be brought again for a
22 third strike. So I jumped on that really quick.

23 Q. Okay.

24 A. If I would have known from the start I
25 would have took it that first day.

RADU RENCIU-DIRECT EXAMINATION BY MR. BOOZER

1 Q. Okay.

2 A. I didn't know, I wasn't fully briefed
3 about it. We were going to get together the
4 following week to fully understand the whole thing,
5 but I was gone the very next day.

6 Q. You are talking about the first plea
7 offer?

8 A. Yes. We never -- he just said right
9 there, but we never, you know.

10 Q. Did you feel like --

11 A. Like looking at a car but not actually
12 popping the hood and taking it for a spin. You are
13 just looking at the outside of it.

14 Q. Do you feel like you ever had an
15 opportunity to fully discuss that offer with Mr.
16 Shelton?

17 A. No, sir.

18 Q. Had you had that opportunity would you
19 have accepted it?

20 A. That's correct. That's why we are
21 here.

22 Q. Okay.

23 MR. BOOZER: Answer any questions that
24 Ms. Coleman may have for you, okay?

25 THE WITNESS: Yes, sir.

1 THE COURT: Ms. Coleman.

2 CROSS-EXAMINATION

3 BY MS. COLEMAN:

4 Q. Mr. Renciu, how are you? You say that
5 you did not have an opportunity to discuss that
6 offer with Mr. Shelton; is that right?

7 A. That's correct.

8 Q. But you were out on bond and you could
9 have gone to talk to him all you wanted about it,
10 right?

11 A. Yeah. But I was working and I moved
12 out. I got kicked out of the house and it was a
13 rough time. I was trying to get a new lawyer. I
14 was trying to -- just a rough time.

15 Q. But you knew you had charges pending
16 against you, right?

17 A. Right, I was on bond.

18 Q. So were those not important enough for
19 you to discuss?

20 A. Of course they were.

21 Q. Okay. And you're saying he told you
22 about the plea offer, right?

23 A. He didn't to the fullest.

24 Q. But he told you what the offer was from
25 the State before you bonded out?

RADU RENCIU-CROSS-EXAMINATION BY MS. COLEMAN

1 A. It was a plea, yes. We got a plea
2 deal. We are going to discuss it next week.

3 Q. The reason -- sorry.

4 A. Like I say, I'm going to get you a car,
5 I will let you know next week. How you know what
6 make and model?

7 Q. And the reason that the State withdrew
8 their plea offer is because you committed another
9 burglary and you were arrested with new charges,
10 right?

11 A. Which I was innocent until pleading.

12 Q. You pled guilty to that, right?

13 A. A lot of them got dismissed.

14 Q. Okay.

15 A. Lots of charges got dismissed.

16 Q. But you were still out committing new
17 crimes while this plea was pending, right?

18 A. No.

19 Q. Okay. Do you remember the day of the
20 guilty plea, when you pled guilty to these four
21 charges?

22 A. Yeah. When I went to court?

23 Q. Yes.

24 A. Yeah.

25 Q. Do you remember waiving your

1 constitutional rights, like your right to a jury
2 trial and your right to remain silent?

3 A. You mean what the judge said before the
4 plea? Yeah.

5 Q. Do you remember telling the plea judge
6 that you were satisfied with your attorney's
7 services?

8 A. I just told him what I was told.

9 Q. Okay. But you had no complaints
10 against your attorney at the time, right?

11 A. Well, it wasn't this plea deal. I
12 wouldn't be able to take this plea deal if I wasn't
13 satisfied.

14 Q. Did you ask your attorney or the plea
15 judge or anyone before the plea what happened to
16 the first deal or why you couldn't have that one?

17 A. Yeah. Looked like because of the
18 charges or something like that.

19 Q. But you were -- you said you were
20 facing a life sentence if you had gone to trial; is
21 that right?

22 A. Well, it moved from ten years to 15 to
23 life without parole, moved back to 15.

24 Q. So you took it?

25 A. After two years in the county jail from

RADU RENCIU-CROSS-EXAMINATION BY MS. COLEMAN

1 a life sentence to 15 to 20, I took that because I
2 wasn't able to get the first offer.

3 Q. So that was a better deal than a life
4 sentence, right?

5 A. Anything is better than a life
6 sentence.

7 Q. Yeah. Do you remember telling the
8 judge that no one was promising you or threatening
9 you to plead guilty?

10 A. That's just the normal procedure, yeah.

11 Q. Do you remember telling the judge that
12 you were guilty of these crimes?

13 A. Do I remember that?

14 Q. And you were guilty of the crimes,
15 right?

16 A. Not all of them.

17 Q. But you pled guilty to them?

18 A. I have to get the plea deal instead of
19 a life sentence. I couldn't plead no contest.

20 Q. Do you still want a trial on these
21 charges knowing you might face life in prison?

22 A. No, I am just here to try to get the
23 first plea I was offered.

24 Q. You just want the first. Did you ever
25 accept this offer, the original plea offer that was

1 stated?

2 A. I never had the chance.

3 Q. Okay. So you don't have any --

4 A. I was gone the very next day.

5 Q. You don't have anything in writing
6 showing that you were accepting the offer like a
7 letter to your attorney or anybody saying yes, I
8 will accept this offer?

9 A. I never got a chance to do nothing.

10 Q. Okay.

11 MS. COLEMAN: Thank you. No further
12 questions.

13 THE COURT: Redirect?

14 MR. BOOZER: Nothing further, Your
15 Honor.

16 THE COURT: You may step down.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: You may call your next
19 witness.

20 MR. BOOZER: No further witnesses, Your
21 Honor.

22 THE COURT: Anything from the State?

23 MS. COLEMAN: Yes, Your Honor. The
24 State calls Chad Shelton.

25 THE COURT: Mr. Shelton, come forward.

1 Let me ask this question.

2 Mr. Boozer, even if I wanted to grant
3 the relief that he has requested, is that something
4 I can do at a post-conviction relief hearing or is
5 it my sole remedy is to grant a new trial?

6 MR. BOOZER: No, Your Honor. I believe
7 in that circumstance if you believe that there is
8 an offer that he was attempting to accept and Your
9 Honor finds that he is entitled to that offer, I
10 believe the remedy is for Your Honor to grant the
11 PCR, but not order a new trial, that you order it
12 to be sent back to General Sessions to where
13 basically the plea would occur where he accepts the
14 original offer.

15 THE COURT: Is that the state of the
16 law?

17 MS. COLEMAN: Your Honor, I'm not aware
18 of any case that says that specifically and there
19 may be one, but I have never heard of it, but
20 usually in this situation they would have to show
21 either that the plea offer, the original plea was
22 not communicated to the client so he did not have a
23 chance to consider it or that he detrimentally
24 relied on it and it was revoked unfairly, some
25 circumstance like that.

1 THE COURT: Yes, sir.

2 CHAD SHELTON

3 having been duly sworn, testifies as follows:

4 THE CLERK: Please state your full name
5 for the record and please spell your last name.

6 THE WITNESS: Chad Shelton,
7 S-H-E-L-T-O-N.

8 DIRECT EXAMINATION

9 BY MS. COLEMAN:

10 Q. Good morning, Mr. Shelton. How long
11 have you been practicing law?

12 A. Ten years.

13 Q. Were you appointed or retained in this
14 case?

15 A. I was in the public defender's office.

16 Q. How many times did you meet with the
17 applicant before his guilty plea?

18 A. A lot. So he was in jail I think from
19 January to March or April, from September of 2013
20 to March or April and probably at least once a
21 month, maybe once every month and-a-half or so I
22 tried to meet. I enjoyed meeting with him. When
23 he got arrested the second time from October to May
24 of -- October of 2014 to May of 2015 it was
25 probably about the same, about once a month, once

CHAD SHELTON-DIRECT EXAMINATION BY MS. COLEMAN

1 every 18 months I met with him or once every six
2 weeks or so.

3 Q. Mr. Renciu testified that he bonded out
4 at some point. Did he ever come to visit you or
5 speak about his case with you during that time?

6 A. I don't have anything that he came to
7 the office to meet with me. I know we talked on
8 the phone. I also talked a lot with his father on
9 the phone. But I know that we did talk and at one
10 point he was doing really well when he was out and
11 then I lost some contact with him.

12 Q. Did you file any Rule 5 or Brady
13 motions?

14 A. I did. I filed a Rule 5 motion in both
15 cases.

16 Q. Did you review the discovery with the
17 applicant?

18 A. Yes.

19 Q. Did you discuss the applicant's version
20 of the facts?

21 A. Yes.

22 Q. And what was his version of the facts
23 for those cases?

24 A. Well, he gave a written statement in
25 the first one that honestly he wrote down that he

1 committed a burglary first degree. So he admitted
2 to taking part in the burglary, helping out
3 somebody else that went in the house and it
4 happened at nighttime. It was a residential
5 burglary. So in his statement to the police he
6 admitted to a burglary first so my hands were
7 really tied with that first charge.

8 Q. Did you discuss any possible defenses
9 with him?

10 A. Yes, we talked about the confession,
11 coercion, that sort of thing. He does speak a
12 different language so we talked about that
13 possibly. But we knew from the beginning on that
14 first set of cases that we needed to try to work
15 out some type of deal because he did admit to
16 taking part in those.

17 The second set he was on video so there
18 was pictures from that from those second
19 burglaries. He was originally charged burg first
20 and the October 2, 2014 one it was a business. We
21 had a preliminary hearing in January 2015 which I
22 was able to get that one dismissed because it was
23 not residential and they then directly indicted for
24 burglary second violent on that second set of
25 charges.

1 Q. What other evidence did the State have
2 against him?

3 A. Well, they had his statement. They had
4 co-defendants. Both times it was with
5 co-defendants they could have gotten, but it was a
6 lot of his own statements and pictures and videos
7 on the second set.

8 Q. Were his co-defendants going to testify
9 against him at trial if he had gone to trial?

10 A. I assume so. We never really got to
11 that point. It was all about trying to work out
12 deals with reduced case.

13 Q. Did you prepare for trial in this case?

14 A. As much as talking with Radu about it.
15 I don't think that we seriously considered going to
16 trial unless we absolutely had to, but I mean I
17 always prepare my cases as going to trial as far as
18 negotiations go and what my clients want.

19 Q. Now, Mr. Renciu has alleged there was
20 an original plea offer from the State. Can you
21 tell us about that?

22 A. Yes. So I was going back through the
23 notes and everything preparing and actually the
24 very first plea offer I got was January 27th of
25 2013 and that was offer for burglary first. That

1 was the very first offer. I then went back and
2 talked with the prosecutor trying to get some
3 leniency and got the offer down to burglary second
4 violent negotiated 15 years. So it would have
5 required him to go to prison for 15 years. We
6 talked about that. And I still continued to
7 negotiate with the prosecutor, actually got that
8 changed to a straight up plea so we had the
9 opportunity of arguing for probation.

10 And in discussing it with Radu the
11 problem with that would have been that he was on
12 probation. So the fact that he was on probation,
13 it would have been difficult in arguing for
14 continuation of probation. And so he bonded out at
15 that point, went to Dorchester and took care of the
16 probation matter, probation parole matter, that he
17 had and then was released from Dorchester County I
18 believe it was around the end of April. He had
19 sent me a letter on April 4th that he bonded out,
20 went to Dorchester County.

21 And so I think it was around the end of
22 April, beginning of May I called -- I went to
23 Dorchester County to try to visit with him and I
24 realized he was not there is my understanding and
25 so that's when I got ahold of his dad to find out

1 that he was out of Dorchester County and we talked
2 a little bit about trying to find work and staying
3 out of trouble and he was -- he went to South
4 Carolina Strong and prior to bonding out of
5 Berkeley County he went to South Carolina Strong to
6 get some help with drug treatment and he was
7 accepted into that. Unfortunately he could not get
8 into that while he was out because he had pending
9 charges.

10 So we talked about just trying to do
11 well, work and stay out of trouble and find the
12 right opportunity to come and plea a judge possibly
13 that would give him that opportunity. And so we
14 talked about it. I lost contact with him then and
15 the next time I heard from him was when he was
16 arrested in October of 2014.

17 Q. So did he ever formally accept through
18 the solicitor's office the plea deal?

19 A. Through me we accepted that plea deal,
20 absolutely. Whether we had a chance to go to court
21 and put that plea deal on the record and go forward
22 with that, we didn't. But all plea deals are based
23 off staying out of trouble and nothing new arising
24 and so, you know, we definitely did talk about
25 taking that deal because it was the best deal we

1 were going to get and he knew that it was getting
2 the right opportunity and then a new charge. He
3 picked up new charges.

4 Q. And what was the new charge that he
5 picked up when he was arrested again?

6 A. He was originally arrested on the new
7 charges were burglary first and a burglary second
8 nonviolent. He got the burglary first later
9 dismissed at the preliminary hearing so they
10 indicted that for burglary second violent. So he
11 essentially got arrested for burglary second
12 violent and a burglary second nonviolent and
13 methamphetamine charges.

14 Q. Okay. So after he was arrested with
15 his new charges what were your plea negotiations
16 with the State?

17 A. At that point in time the State refused
18 to allow him to plea under that first burglary
19 first knock down. It was a new prosecutor. I
20 attempted. I tried really hard. I did everything
21 I could to try to get that offer back on, but the
22 prosecutor because of the new charges would not
23 make that offer. And so he -- the best we had was
24 to burglary first. The prosecutor then was talking
25 about life without parole based off the new

CHAD SHELTON-DIRECT EXAMINATION BY MS. COLEMAN

1 charges, the new burg second violent, the burg
2 first that was charged with just the string of
3 burglaries that he was arrested on going forth on
4 one and then the next and the next essentially
5 trying to seek life without parole and so that's
6 what the prosecutor talked about doing.

7 I thought it was pretty strong handed,
8 but that's what he would have had the ability to
9 do. He offered the cap of 20. Actually he offered
10 20 at first and then made it a cap of 20 so that we
11 could argue for less. And I tried to argue for the
12 minimum, but unfortunately the judge gave him the
13 18. Unfortunately the judge gave him the 18
14 instead of the 20 or higher. So I argued that he
15 did have drug problems, he was accepted in South
16 Carolina Strong. I argued that heavily against the
17 -- argued as much as I could to get to the minimum.
18 But unfortunately there was no way to get around
19 unfortunately that he did admit to a burglary first
20 in his statements to the police.

21 Q. At the actual guilty plea did you
22 review his constitutional rights with him?

23 A. Yes.

24 Q. Did he ever tell you he did not
25 understand something?

1 A. No.

2 Q. Did you discuss the State's offer with
3 him and did he seem to understand that?

4 A. Yes. He wasn't very happy about it.
5 He wanted that prior one to come back, but, yes,
6 always discuss that.

7 Q. Whose decision ultimately was it to
8 plea guilty?

9 A. His decision.

10 Q. And do you agree with that decision?

11 A. Yeah, absolutely.

12 MS. COLEMAN: Thank you. Nothing
13 further.

14 CROSS-EXAMINATION

15 BY MR. BOOZER:

16 Q. Mr. Shelton, how are you?

17 A. Good.

18 Q. Let's get into the details of sort of
19 when this plea offer was made. Let's go -- when
20 was the first plea offer made to the applicant?

21 A. The very first was January 27th.

22 Q. When was the one which we are talking
23 about that he wanted to accept? When was that one
24 made?

25 A. March 19th.

1 Q. Of?

2 A. 2014.

3 Q. Okay. When did you take that over to
4 him?

5 A. I can't speak on the exact date that I
6 would have taken that over to him.

7 Q. But you agree that after you took it to
8 him he was transferred after that?

9 A. Right.

10 Q. Was it -- do you know if it was the
11 next day or when it was that he was transferred?

12 A. I don't remember. That could be how.
13 I heard Radu testify previously how it happened.

14 Q. Did you have any contact with him
15 between the time you go over to discuss this plea
16 offer and then to the next time that he's
17 rearrested? Did you have contact with him?

18 A. Yes.

19 Q. During that time, and I think you had
20 testified earlier when you were asked by the State
21 whether Radu actually accepted that offer, you
22 basically said yes through myself he accepted that
23 deal.

24 A. Yes.

25 Q. Explain what you mean to me by that.

1 A. Well, we knew we had to accept the
2 offer. So I mean it was the best we were going to
3 get and I was trying to get probation. He wanted
4 probation. I was trying to get the recommendation
5 of probation. But we just couldn't get that. So
6 we knew -- he knew that that was that's -- we are
7 going to take that offer. It was just a timing
8 when are we going to take the offer.

9 Q. Do you recall if there was any
10 expiration date on the offer or anything like that?

11 A. I believe it was -- originally was
12 April of 2014 and then the Dorchester County stuff
13 came up. So with the next prosecutor I was able to
14 get it moved to June of 2014 and that's when I lost
15 contact with him. And the solicitor actually
16 lettered him in for August of 2014 because there
17 was not -- there was no contact with him to accept
18 or reject the offer and we still didn't hear from
19 him and then in October is when he was arrested.

20 Q. Had you conveyed to the solicitor Radu
21 is going accept this plea, let's go to court and
22 get it on the record?

23 A. Yes, absolutely. We were trying to
24 pick out the right time.

25 Q. Okay. Why were you not able to contact

1 Radu?

2 A. I don't know. I can give my opinion,
3 but I don't know.

4 Q. I will stick with I don't know.

5 A. Okay.

6 Q. But there was no doubt he wanted to
7 accept this offer or that he accepted this offer?

8 A. There was no doubt that we were going
9 to go with this offer, absolutely. We were trying
10 to get a better, but there was no doubt that we
11 were going to take this offer.

12 Q. Okay. What would have happened --
13 let's say for instance, let's take this scenario
14 where he had accepted that offer and even while he
15 is out on bond these new charges come up. What
16 would you have done then? Let me rephrase that.
17 Let's say that he accepts the offer, y'all actually
18 go before a judge and enter the plea, but then
19 during that time while he was out these new charges
20 came up. What would have happened then if y'all
21 would have gotten before a judge, you accepted the
22 plea and then the State says oh, we got these new
23 charges. What would have happened?

24 A. Then it would have been a probation
25 violation I guess if it would have occurred after

1 he got placed on probation. So if these charges
2 would have -- if it wouldn't have then I guess it
3 wouldn't have been a violation of probation. The
4 solicitor could go forward, I mean ask for jail
5 time on new charges. But all the new charges that
6 wouldn't have had the minimum.

7 Q. The new charges would not have had the
8 minimum?

9 A. Right.

10 Q. Okay.

11 A. Maybe the life without parole would
12 have come into play though.

13 Q. Okay.

14 A. Because he would have had a strike.

15 MR. BOOZER: Beg the Court's
16 indulgence, Your Honor.

17 (Attorney confers with client.)

18 MR. BOOZER: Thank you, Mr. Shelton.
19 That's all I have.

20 REDIRECT EXAMINATION

21 BY MS. COLEMAN:

22 Q. Just a brief followup. There's no
23 question that you communicated the offer to your
24 client, correct?

25 A. Yes.

1 Q. In your opinion did he rely on this
2 offer to his detriment in any way?

3 MR. BOOZER: Objection, Your Honor.
4 I'm not sure that he can answer that question.

5 THE COURT: I will sustain the
6 objection.

7 BY MS. COLEMAN:

8 Q. The confession that he gave to the burg
9 first, was that given before this offer?

10 A. Yes.

11 Q. So he had already confessed to the
12 crime?

13 A. Right.

14 MS. COLEMAN: Thank you. Nothing
15 further.

16 THE COURT: You may step down.

17 MS. COLEMAN: The State has no further
18 witnesses.

19 THE COURT: All right. Mr. Boozer, be
20 glad to hear from you.

21 MR. BOOZER: Thank you, Your Honor.
22 Pleases the Court, Judge, I think this is kind of a
23 unique set of circumstances and facts that I don't
24 know that I have encountered this exact scenario.
25 I have certainly encountered cases where plea

1 offers are being discussed and not accepted or
2 whatnot. But Mr. Shelton's testimony is
3 affirmative that Radu accepted the offer and they
4 were just trying to get the timing down as when to
5 go before the Court and do it.

6 THE COURT: One of the things that I
7 want to ask you about is of course your position is
8 that he accepted it and how is that acceptance
9 manifested? Seems like to me in order for there to
10 be acceptance you need to take a plea or give a
11 written confirmation which I don't see either one
12 of them taking place.

13 MR. BOOZER: Judge, I don't have
14 anything to say to get around that exact question.
15 It seems to me he fortunately gets out, loses
16 contact with his lawyer, but at some point makes
17 the affirmative acceptance. Based on Mr. Radu's
18 own testimony, Mr. Renciu's own testimony coupled
19 with Mr. Shelton's own testimony, there is no doubt
20 he accepted it.

21 THE COURT: I think in their mind they
22 wanted to take it, but the issue is whether or not
23 there was acceptance of it, wouldn't you think?

24 MR. BOOZER: I think there's an issue
25 with -- I don't think there's an issue with whether

1 he accepted it. I think there's some issue as then
2 what steps were taken to formalize it and to put it
3 on the record and get it before a court before all
4 this new stuff sort of pops up.

5 THE COURT: Ms. Coleman.

6 MS. COLEMAN: Thank you, Your Honor.
7 And as you said, he did not formally accept this
8 offer. There's nothing on the record, there's no
9 letter in writing accepting it through the
10 solicitor's office. And I would submit that's that
11 the applicant's own fault. He bonded out of course
12 which he chose not to speak to his attorney and for
13 whatever reason they lost contact with each other.
14 He knew he had pending charges against him. And
15 the only reason that the plea offer was withdrawn
16 was because he went out and committed more crimes
17 and was arrested on new charges. It is not through
18 any fault of the solicitor's office. There's no
19 bad faith. There was no fraud. South Carolina law
20 also provides broad discretion to the solicitors in
21 choosing what plea offers or negotiations to make
22 or what charges to give. I don't think the
23 solicitor's office did anything wrong in
24 withdrawing this here and I don't think he has
25 shown any detrimental reliance on the plea offer as

1 well that would require it to be reopened to him.
2 He already confessed to the crime. He didn't do
3 anything that would harm his case while the plea
4 was pending relying on that plea offer. It is
5 through his own fault that it was withdrawn and we
6 ask you to deny post-conviction relief.

7 MR. BOOZER: Your Honor, may I just
8 have one moment?

9 THE COURT: Yes.

10 (Off-the-record conference.)

11 MR. BOOZER: Your Honor, sort of
12 backtrack a little bit and answer a question that
13 was posed by the Court as far as where is this
14 formalized or where is this accepted. Mr. Shelton
15 has pulled from his file what he believes to be
16 e-mail correspondence between himself and the
17 solicitor's office in which they are basically
18 essentially trying to set up the plea to occur. It
19 seems to me from this e-mail as I am looking at it
20 that they are trying to set up the plea. As a
21 matter of fact from Solicitor West it's got Chad,
22 looks like we dropped the ball on getting Renciu
23 during June. Can we get him during a plea week.
24 This is after Mr. Shelton's correspondence asking
25 when they can get him in. They are still trying to

1 get probation or asking about probation.

2 So, Your Honor, I would -- I don't know
3 if I need to recall Mr. Shelton to the stand to
4 authenticate this or if Your Honor would accept
5 judicial notice if you were able to. I would like
6 to mark this as an exhibit.

7 THE COURT: Any objection to making
8 that part of the record?

9 MS. COLEMAN: I would like to have him
10 authenticate it if that's all right with you by Mr.
11 Shelton for the record.

12 MR. BOOZER: We call Mr. Shelton, Your
13 Honor.

14 THE COURT: I remind you that you are
15 still under oath.

16 FURTHER CROSS-EXAMINATION

17 BY MR. BOOZER:

18 Q. Mr. Shelton, you have supplied to me
19 from your file a copy of what appears to be a
20 series of e-mails. Could you describe and identify
21 those for me?

22 A. Yes. This is an e-mail between myself
23 and assistant solicitor Mason West. He was the new
24 prosecutor on the case. And he is just trying to
25 get a timeline of Radu's case and going back and

1 forth between Dorchester County and I let him know
2 about finishing up everything in Dorchester County
3 and I was thinking the end of June with Judge
4 Dennis for a plea. And so we were looking at
5 getting him set up for the plea end of June. And I
6 do have a previous e-mail with the prior prosecutor
7 offering the -- this is the 15, find the one where
8 he is offering the -- so here's the one with Adrian
9 Dejeu. That was offering the -- instead of
10 negotiated 15 years a straight up plea and I said
11 he will probably accept that. That was in March
12 and then this e-mail from May with Mason West.

13 Q. And e-mail cshelton@homesc.com, is that
14 your e-mail address?

15 A. That is my e-mail address.

16 Q. Are these true and accurate copies of
17 e-mail correspondence from you to members of the
18 solicitor's office?

19 A. Yes.

20 MR. BOOZER: Your Honor, at this time
21 we would move to make this -- collectively it's
22 five pages of e-mail correspondence as Applicant's
23 Exhibit 1.

24 MS. COLEMAN: Without objection.

25 THE COURT: When did the plea take

CHAD SHELTON-CROSS-EXAMINATION BY MR. BOOZER

1 place?

2 MR. BOOZER: Your Honor, the plea was
3 June 24th of 2015.

4 THE COURT: What about this paragraph
5 says offer expires Friday, April 25th, 2014?

6 MR. BOOZER: I would have to look a
7 little bit more closely, Your Honor, or if that's
8 directed at Mr. Shelton.

9 THE WITNESS: That's when they put the
10 expiration date, but it wasn't -- it was never
11 withdrawn based off an expiration date.

12 THE COURT: You maintain that there was
13 a plea agreement and they didn't have -- I'm not
14 sure whether you are taking that position now. But
15 if there was a plea offer and it was accepted why
16 didn't you move to enforce the agreement?

17 THE WITNESS: I didn't think to do that
18 because he picked up the new charges and I thought
19 that --

20 THE COURT: So you think that's
21 justification for withdrawing of the offer?

22 THE WITNESS: Yes.

23 THE COURT: Ms. Coleman, anything
24 further?

25 MR. BOOZER: Your Honor, I just want to

1 make sure that that e-mail correspondence gets
2 marked and entered as an exhibit.

3 THE COURT: It is.

4 MR. BOOZER: Your Honor, if I may, I do
5 have a couple of follow-up questions for Mr.
6 Shelton as it relates to the e-mail correspondence.

7 THE COURT: What about this letter says
8 yeah, I really want him to go in front of Judge
9 Dennis, that should be willing to give a probation
10 based on going to SC Strong. I have got Judge
11 Dennis switched out for next term. Does that
12 happen? Do they shop for judges down here in
13 Berkeley County?

14 THE WITNESS: I know Judge Dennis
15 really likes South Carolina Strong.

16 THE COURT: To answer the question they
17 do judge shop; is that correct?

18 THE WITNESS: I try to put my clients
19 in the best situation possible.

20 THE COURT: All right.

21 (DFT. EXH. 1, e-mails, was marked for
22 identification.)

23 BY MR. BOOZER:

24 Q. Mr. Shelton, just to be clear, the
25 e-mail correspondence that has been marked as

1 Exhibit 1, that e-mail correspondence is reflecting
2 the offer that we are here today about discussing
3 that Radu said he was accepting; is that correct?

4 A. That's correct.

5 Q. Okay. And that e-mail correspondence,
6 in your opinion did that reflect -- you have
7 already told the solicitor you are accepting this,
8 you are just trying to nail it down and get it
9 scheduled to get before a judge?

10 A. Yes.

11 Q. And then after that is when the new
12 charges came about?

13 A. Yes.

14 MR. BOOZER: Okay. Thank you. That's
15 all the questions I have.

16 REDIRECT EXAMINATION

17 BY MS. COLEMAN:

18 Q. He did not go before the plea court to
19 accept this, right?

20 A. No, he did not.

21 Q. Because you couldn't get ahold of him.
22 So the e-mails where you are saying he will
23 probably accept this offer, you hadn't actually
24 discussed it with him yet, is that correct, in
25 these e-mails?

1 A. No, I had discussed it with him. He
2 was going to accept the offer. It was -- that was
3 my way of trying to continue to negotiate with the
4 prosecutor to try to get some type of
5 recommendation of probation. I was just trying to
6 get it better, but no, he was always going to
7 accept that offer.

8 MS. COLEMAN: Okay. Thank you.
9 Nothing further.

10 THE COURT: You may step down.
11 Anything from anybody?

12 MS. COLEMAN: Again, Your Honor, I just
13 don't believe that this is a formal acceptance.
14 Although it is clear that he was on the same page
15 with the solicitor that he wanted this deal, he
16 didn't go before the Court. They didn't finalize
17 the offer. Nothing was formalized and again by his
18 own fault the offer was withdrawn.

19 THE COURT: What do you think about the
20 fact there was an expiration?

21 MS. COLEMAN: Mr. Shelton testified to
22 the expiration date had been shifted several times
23 and so it never formally expired, but again even it
24 seems like the solicitor's office was fairly
25 lenient in pushing that expiration date off when

1 they could have just said it is off the table now.
2 Again, he was out on bond. He could have contacted
3 his attorney. Seemed like they were waiting for
4 the right moment to accept it. But it seems like
5 he was given more than enough time to accept this
6 offer.

7 THE COURT: Anything further?

8 MR. BOOZER: Judge, just to protect the
9 record I think it is clear in the application, but
10 based on the testimony that Mr. Shelton just gave
11 with this e-mail correspondence, I would make a
12 motion to amend the pleadings to conform to the
13 evidence as it relates Mr. Shelton failing to move
14 to enforce this plea agreement. I would make that
15 motion.

16 MS. COLEMAN: I oppose the amendment
17 just because it's not timely. It was not alleged
18 in this application. It has just come up today.

19 And if I may respond as well, if you do
20 allow this amendment to be made, just as to the
21 merits of the argument, even if he had moved to
22 enforce the plea agreement I don't believe it would
23 have been accepted by the Court based on his
24 subsequent arrest and new charges. So there's no
25 prejudice there.

1 THE COURT: Ms. Coleman, I'm going to
2 ask you to prepare an order to denying the
3 post-conviction relief. I find that the offer was
4 indeed made and communicated. The Defendant
5 through his own actions chose not to follow up and
6 speak with his lawyer. They had some difficulty
7 getting up with him. I think there was some
8 mention of a correspondence from defense counsel
9 Mr. Shelton they had dropped the ball because they
10 weren't able to get him back in. You can't through
11 your own doing not show up, not follow through with
12 the negotiations and then later come back and take
13 advantage of that.

14 I also think that the offer was not an
15 unconditional offer. There was an expiration date
16 that was placed in there and according to Mr.
17 Shelton there was always -- in Berkeley County
18 there is always a condition on a plea offer that
19 they stay out of trouble. Under these
20 circumstances I don't think that the plea was
21 accepted. The record is there. I think my
22 findings are that the offer was never accepted.

23 I'm going to ask that you make note in
24 the order that there indeed was a guilty plea.
25 There were no threats or promises. He had an

1 opportunity to address the Court at that time as to
2 any promises or any plea agreements that had been
3 made and thereafter revoked. He did say under oath
4 that he was indeed guilty of the crime for which he
5 was being charged. And he also gave a statement
6 prior to the plea that he was guilty of burglary
7 first degree.

8 I think the record is replete with the
9 fact that Mr. Shelton did engage in active plea
10 negotiations. I think the first one was plea to
11 first degree burglary. Then there was a negotiated
12 15 years. There was a straight up plea and then
13 they were holding out hoping for probation, but he
14 was on probation at that time. They ultimately
15 worked out a cap for 20 years. So there was
16 ongoing negotiations, but I think it was through
17 the Defendant's conduct that he did not follow
18 through and effectuate the plea negotiations.

19 I do think it is important to note that
20 the applicant was able to avoid a life without
21 parole and there has been no evidence offered here
22 today that the Defendant detrimentally relied upon
23 the plea agreement. In addition to that, I don't
24 believe that I have the ability to order what they
25 requested in the post-conviction relief hearing. I

1 think my -- the remedy that I am restricted to is
2 to grant a new trial and let him start from square
3 one and start negotiating over again at this
4 juncture. I will ask that you prepare the order.

5 MS. COLEMAN: I will. Thank you, Your
6 Honor.

7 (These proceedings were concluded at
8 11:01 a.m., December 4, 2017, Berkeley County,
9 South Carolina.)

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CERTIFICATE OF REPORTER

I, Ruth C. Weese, Registered Diplomate Reporter 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 16th day of February, 2018 at Charleston, Charleston County, South Carolina.

Ruth C. Weese

Ruth C. Weese
Registered Diplomate
Reporter

3/19/2014
94

Home Telecom Mail - RE: State. v. Radu Renciu



RE: State. v. Radu Renciu

Adrian G. Dejeu <dejeua@scsolicitor9.org>
To: C Shelton <cshelton@homesc.com>

Wed, Mar 19, 2014 at 3:12 PM

Chad,

I am revising this offer. Instead of negotiated 15, I am fine with a straight-up plea. Same deadline.

Thanks,
Adrian

From: Adrian G. Dejeu
Sent: Tuesday, March 11, 2014 2:36 PM
To: 'C Shelton'
Subject: State. v. Radu Renciu

Chad,

I am offering a negotiated 15 yrs. under Burglary 2d violent in exchange for a guilty plea. Defendant will have to plead to the second burglary charge for concurrent time.

The offer expires Friday on April 25, 2014.

Once you discuss this case with your client, pls let me know what he wants to do.

Thanks,

Adrian

Adrian G. Dejeu
Assistant Solicitor
Ninth Judicial Circuit Solicitor's Office
300-B California Avenue
Moncks Corner, SC 29461
(843) 719-4496
dejeua@scsolicitor9.org

**DEFENDANT'S
EXHIBIT**

1 reu

C Shelton <cshelton@homesc.com>
To: "Adrian G. Dejeu" <dejeua@scsolicitor9.org>

Wed, Mar 19, 2014 at 3:28 PM

He will probably accept that, the only way he wouldn't is because of probation. I will let you know, thanks,

Chad

[Quoted text hidden]

—

Chad D. Shelton
Assistant Public Defender
P: 843-899-2777
F: 843-899-2701

7/1/2014
96

Home Telecom Mail - Radu Renciu



Radu Renciu

Mason West <westm@scsolicitor9.org>
To: C Shelton <cshelton@homesc.com>

Thu, May 15, 2014 at 10:30 AM

Chad,

I know we've talked about this case a few times, but I'm trying to get a timeline in my head. When are his charges in Dorchester being handled? And what is looking at getting over there?

E. Mason West

Assistant Solicitor

Ninth Judicial Circuit

300-B California Avenue, Moncks Corner, SC 29461

843-719-4529

WestM@SCSolicitor9.org

C Shelton <cshelton@homesc.com>

Thu, May 15, 2014 at 10:47 AM

To: Mason West <westm@scsolicitor9.org>

He just finished with everything. I am thinking the end of June with Judge Dennis for the plea.

[Quoted text hidden]

—

Chad D. Shelton
Assistant Public Defender
P: 843-899-2777
F: 843-899-2701

Mason West <westm@scsolicitor9.org>
To: C Shelton <cshelton@homesc.com>

Thu, May 15, 2014 at 10:47 AM

What did he get?

Dennis works for me.

From: C Shelton [mailto:cshelton@homesc.com]
Sent: Thursday, May 15, 2014 10:47 AM
To: Mason West
Subject: Re: Radu Renciu

[Quoted text hidden]

C Shelton <cshelton@homesc.com>
To: Mason West <westm@scsolicitor9.org>

Thu, May 15, 2014 at 10:48 AM

It was a parole hearing and he had already served his time, so he got time served.

[Quoted text hidden]

Mason West <westm@scsolicitor9.org>
To: C Shelton <cshelton@homesc.com>

Fri, Jun 20, 2014 at 10:15 AM

Chad,

It looks like we dropped the ball on getting Renciu over here during June. Can we get him during the plea week?

Thanks.

Mason

From: C Shelton [mailto:cshelton@homesc.com]

Sent: Thursday, May 15, 2014 10:49 AM

[Quoted text hidden]

[Quoted text hidden]

C Shelton <cshelton@homesc.com>
To: Mason West <westm@scsolicitor9.org>

Fri, Jun 20, 2014 at 12:15 PM

Yeah, I really wanted him to go in front on Judge Dennis. Unless you would be willing to give probation based on going to SC Strong. I forgot that Judge Dennis switched out for next term b/c that is when I had him coming in.

[Quoted text hidden]

Mason West <westm@scsolicitor9.org>
To: C Shelton <cshelton@homesc.com>

Thu, Jun 26, 2014 at 11:56 AM

I can't recommend probation. I'm assuming that means you don't want to bring him in during the plea week.

From: C Shelton [mailto:cshelton@homesc.com]
Sent: Friday, June 20, 2014 12:15 PM

[Quoted text hidden]

[Quoted text hidden]

STATE OF SOUTH CAROLINA)
 COUNTY OF BERKELEY)
 Radu Renciu, #348233,)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT

2016-CP-08-1385

ORDER OF DISMISS

17 DEC 28 AM 9:14
 MARY P. BROWN
 CLERK OF COURT
 BERKELEY COUNTY, S.C.

FILED

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on June 24, 2016. Respondent submitted its return on June 27, 2017. An evidentiary hearing into the matter was convened on December 4, 2017, at the Berkeley County Courthouse. Applicant was present at the hearing and was represented by Lance S. Boozer, Esquire. Respondent was represented by Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office.

Before this Court are the records of the Berkeley County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, the State's Return, and the application. Based on these records and the testimony presented, the Court finds as follows:

I. PROCEDURAL HISTORY

The records before this Court indicate that Radu Renciu ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Berkeley County Clerk of Court. During its December 2013 term, the Berkeley County Grand Jury indicted Applicant for first-degree burglary (2013-GS-08-1765) and second-degree burglary (non-violent) (2013-GS-08-1766). Thereafter, during its March 2015 term, the Berkeley

County Grand Jury indicted Applicant second-degree burglary (violent) (2015-GS-08-0308). The Berkeley County Grand Jury also indicted Applicant for possession of methamphetamine (2012-GS-08-0574). Chad D. Shelton, Esquire ("Plea Counsel"), represented Applicant. Assistant solicitor Wilton McNeely, Esquire, prosecuted the case. On June 24, 2015, Applicant appeared before the Honorable R. Markley Dennis, Jr. and pled guilty as indicted to all four offenses. Judge Dennis sentenced Applicant to a term of thirty years' imprisonment suspended upon the service of eighteen years imprisonment for first-degree burglary, to a concurrent term of ten years' imprisonment for second-degree burglary (non-violent), to a concurrent term of fifteen years' imprisonment for second-degree burglary (violent), and a concurrent term of one years' imprisonment for possession of methamphetamine. Applicant did not appeal his convictions or sentences.

II. ALLEGATIONS

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

1. "Ineffective Assistance of Counsel"
 - a. "Counsel failed to ensure court accepted drug rehab."
2. "Failure to honor plea deal"
 - a. "Trial court sentenced me above agreement."
3. "Invalid Guilty Plea"
 - a. "Involuntary guilty plea based on counsel advice."

At the end of the evidentiary hearing, Applicant moved to conform his allegations to the testimony presented, and added an allegation of ineffective assistance of counsel for failure to enforce the original plea agreement.

III. SUMMARY OF RELEVANT TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. Respondent presented testimony from Chad D. Shelton, Esquire.

Applicant's testimony

Applicant testified he is currently serving a thirty year sentence for all his charges. He testified the State originally made an offer to allow him to plead to second-degree burglary for a fifteen year sentence, and he would only serve sixty-five percent. He stated Plea Counsel never fully explained this offer to him, and after he told him about it, Applicant bonded out of jail. He stated he did not know if Plea Counsel tried to contact him after he bonded out, but he did not go visit Plea Counsel to discuss his case. He stated that, while out on bond and before he could accept the plea deal, he was arrested for new charges, and the plea deal was taken off the table. He stated the State offered him a new deal for his charges, and he took the deal so he would not get a life sentence if convicted at trial.

Plea Counsel's testimony

Plea Counsel testified that Applicant never seriously considered going to trial on these charges. He stated the State made its original plea offer for a negotiated fifteen year sentence for second-degree burglary, violent. He stated they negotiated and changed the offer to a straight up plea so that Plea Counsel could argue for probation, but he opined it would have been difficult to argue for probation because Applicant was already on probation at the time. Plea Counsel testified that he conveyed the offer to Applicant, and they intended to accept the offer. However, Applicant bonded out of jail to take care of a probation matter in Dorchester County and he lost touch with Plea Counsel. Plea Counsel stated Applicant was not in Dorchester County when he went to visit him. He stated he spoke with Applicant's father about Applicant working and trying

to stay out of trouble. He stated Applicant was accepted into the South Carolina STRONG drug program, and they were just waiting for the right opportunity to accept the plea deal and plead guilty.

Plea Counsel testified he lost contact with Applicant until he was arrested months later on new charges of first-degree burglary and second-degree burglary, non-violent. He stated that, after Applicant was arrested on new charges, the State withdrew their offer and refused to allow him to plead to that deal. He stated the prosecutor made it clear that he would not make that offer again. Plea Counsel testified the State wanted to seek a life without parole sentence, and they could have done so based on Applicant's record and charges. He stated the State offered a plea deal with a cap of twenty years, so they accepted the offer. Plea Counsel testified he presented mitigation at the guilty plea and argued for the minimum sentence, but Applicant had confessed to the crimes.

Plea Counsel stated the original plea offer had an expiration date in April, 2014, but the Dorchester County probation issue came up, so the deadline was extended to June 2014, and then Plea Counsel lost contact with Applicant because he was out on bond, so it was extended to August, 2014. He stated Applicant was arrested on the new charges in October. Plea Counsel testified there was no doubt they were going to take the original plea offer. He stated he told the Solicitor's Office that Applicant was going to accept the plea deal, but they never had a formal hearing for the court to accept the deal. Plea Counsel testified he did not make a motion to enforce the original plea offer because he thought Applicant's new charges justified the State's withdrawal of their offer.

IV. APPLICABLE LAW

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 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 (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, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

V. 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 (1985).

INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges Plea Counsel was ineffective in his representation surrounding his guilty plea. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985).

In the present case, this Court finds Applicant has failed to meet his burden in proving Plea Counsel was ineffective in any regard. This Court finds the original plea offer was made and clearly communicated to Applicant through Plea Counsel. Applicant did not follow up on the plea offer while he was out on bond, and they were unable to get back into court to accept the offer because Applicant did not reach out to his attorney and lost contact with him. Applicant

lost the plea offer through his own actions when he committed new crimes, resulting in a new arrest on new charges. The offer from the State was not unconditional; there was an expiration date, and there was always an understanding that Applicant must stay out of trouble to keep the offer. This Court finds the original plea offer was never accepted by Applicant, regardless of his intent to accept it at some point.

Plea Counsel credibly testified he did not make a motion to enforce the original plea agreement because he felt Applicant's new charges justified the State's decision to withdraw the offer. The solicitor has broad discretion in plea negotiations leading up to trial. State v. Johnson, 287 S.C. 171, 172, 337 S.E.2d 204, 205 (1985). This Court finds the State did not abuse their authority in any way in choosing to withdraw their prior offer, and Applicant lost the opportunity to accept the offer because of his own actions. This Court finds Applicant did not detrimentally rely on the original plea agreement.

This Court finds Plea Counsel represented Applicant well within the bounds of professional norms, and none of his actions were ineffective. Plea Counsel participated in ongoing plea negotiations with the State, and ultimately Applicant was able to avoid a sentence of life without parole by pleading guilty. This Court finds neither deficiency nor prejudice on any ground, and this allegation is denied and dismissed with prejudice.

INVOLUNTARY GUILTY PLEA

Applicant argues his plea was not given freely and voluntarily. This Court finds otherwise and concludes that Applicant's plea was entered freely and voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant 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, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver

of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

The guilty plea transcript shows Applicant was fully advised of his rights and the consequences of pleading guilty. Applicant testified on the record at the plea that he was not promised anything or threatened to plead guilty, and he had the opportunity to address the court with any concerns about the plea arrangement. Applicant testified he was guilty of the charges and he gave a statement to law enforcement admitting that he was guilty. This Court finds that there was no coercion affecting Applicant's decision to plead guilty, the record reflects that Applicant was fully advised of the rights he was waiving by pleading guilty, and that his plea was entered into knowingly and intelligently. Applicant presented no credible evidence as to why he should be able to depart from his statements at the plea hearing. This Court finds very credible Plea Counsel's testimony that Applicant understood everything at the plea and that it was solely Applicant's decision to plead guilty. Applicant has failed to present any probative or credible evidence that he was coerced into pleading guilty. As a result, he has failed to meet his burden, and this allegation is denied and dismissed.

VI. CONCLUSION

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

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

IT IS THEREFORE ORDERED:

1. That the application for Post-Conviction Relief is denied and dismissed with prejudice in regard to all allegations; and
2. Applicant must be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 13 day of Dec, 2017

[Signature], South Carolina

[Signature]
 MICHAEL G. NETTLES
 Presiding Judge
 Ninth Judicial Circuit

DEJ2013-09-02360

WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2013-3811

ARREST WARRANT NUMBER

2013A0820200650

DATE OF ARREST

September 18, 2013

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: 12-18-13

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2013GS0801765

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

December Term

THE STATE

vs.

RADU EUGENE RENCIU

DOB: [REDACTED]
W/M

Indictment for

Burglary 1st Degree

§16-11-0311(A)
CDR: 0079

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY S.C.

13 DEC 18 PM 12:29

FILED

1/24/14

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

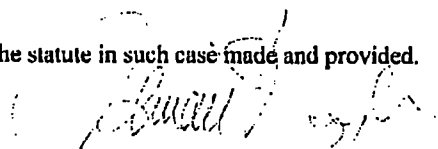
INDICTMENT

At a Court of General Sessions, convened on December 18, 2013 the Grand Jurors of Berkeley County present upon their oath:

Burglary 1st Degree

That RADU EUGENE RENCIU did in Berkeley County, South Carolina, on or about September 10, 2013, enter the dwelling of Darryl Bates, located at [REDACTED] Goose Creek, South Carolina, without consent and with the intent to commit a crime therein, and did so while armed with a deadly weapon, in violation of §16-11-0311(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.



ADRIAN DEJEU
ASSISTANT SOLICITOR

DEJ2013-09-02360

WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2013-3811

ARREST WARRANT NUMBER

2013A0820200651

DATE OF ARREST

September 18, 2013

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 12.18.13

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2013GS0801766

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

December Term

THE STATE

vs.

RADU EUGENE RENCIU

DOB: [REDACTED]

W/M

Indictment for

Burglary 2nd Degree

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

13 DEC 18 PM 12:29

FILED

✓
Hick

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)


INDICTMENT

At a Court of General Sessions, convened on December 18, 2013 the Grand Jurors of Berkeley County present upon their oath:

Burglary 2nd Degree

That RADU EUGENE RENCIU did in Berkeley County, South Carolina, on or about August 29, 2013, enter the dwelling of Raymond Lichauco, located at [REDACTED] Goose Creek, South Carolina, without consent and with the intent to commit a crime therein, to wit: Larceny, in violation of §16-11-0312 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.



ADRIAN DEJEU
ASSISTANT SOLICITOR

WST2014-10-02239

WITNESSES

Goose Creek Police Department

AGENCY CASE NUMBER

2014-3971

ARREST WARRANT NUMBER

2015A0820200081

DATE OF ARREST

January 23, 2015

ACTION OF GRAND JURY

Seven Jurors
Foreperson of Grand Jury
Date: 3-10-15

VERDICT

True Bill

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2015GS0800308

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

March Term

THE STATE

vs.

RADU EUGENE RENCIU

DOB: [REDACTED]
W/M

Indictment for

Burglary 2nd Degree

§16-11-0312
CDR: 0086

FILED
CLERK OF COURT
BERKELEY COUNTY, S.C.

15 MAR 10 PM 12:50

FILED

JFH

JFH

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on March 10, 2015 the Grand Jurors of Berkeley County present upon their oath:

Burglary 2nd Degree *ACD*
September 19, 2014

That in Berkeley County, on or about ~~January 23, 2015~~ *September 19, 2014* the Defendant, RADU EUGENE RENCIU, did enter without consent and with the intent to commit a crime therein, the building of Murphy's Oil, located at [REDACTED], Goose Creek, South Carolina, and the Defendant did enter the building in the nighttime, in violation of §16-11-0312 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.

E. Mason West

E. MASON WEST
ASSISTANT SOLICITOR

EMW/0235266/2014-10-02234
WITNESSES

Berkeley County Sheriff's Office

[Signature]

AGENCY CASE NUMBER

201410048144

ARREST WARRANT NUMBER

2014A0810401164

DATE OF ARREST

10/07/2014

ACTION OF GRAND JURY

[Signature]
Foreperson of Grand Jury

Date:
4/14/15

VERDICT

True Bill

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-08-00574

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

APRIL TERM 2015

THE STATE

VS.

RADU RENCIU
W/M DOB [REDACTED]

Indictment for

POSSESSION OF METHAMPHETAMINE

SC Code: § 44-53-0375 (A)
CDR Code: 3009

15 APR 14 PM 12:49
CLERK OF COURT
BERKELEY COUNTY, S.C.

15 APR 14 PM 12:49

[Signature]
FILED

[Signature]

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF BERKELEY

At a Court of General Sessions, convened on April 14, 2015, the Grand Jurors of Berkeley County present upon their oath:

Possession of Methamphetamine

The defendant, Radu Renciu, did on or about October 6, 2014, in Berkeley County, South Carolina, knowingly or intentionally possess Methamphetamine as defined in Section 44-53-110. All in violation of 44-53-0375 (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.



E. MASON WEST
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Charleston Berkeley)
State of South Carolina,)
-vs-)

COURT OF GENERAL SESSIONS

BOND ORDER

JPH
FILED

NOV -6 2013

CASE NO.
MARY P. BROWN CLERK OF COURT
BERKELEY COUNTY, SC

Radu Renciu

Warrant/Indictment #'s: 2012A0926260650; 2012A09262606501
Charges / Offenses: Burg 1st; Burg 2nd Non-Violent

This matter is before the court on a: motion to reduce bond motion to set bond motion to revoke bond.
on Burg 1st charge

Having now determined this matter, the court orders as follows:

the motion(s) is/are hereby granted.

the motion(s) is/are hereby denied.

set or reduce bond on _____ charges.

Bond is hereby ordered as follows: \$100,000 consolidated
surety bond

This order represents one consolidated bond on all the listed charges.

This order requires separate bonds on each listed charge.

All bond conditions previously ordered shall be part of this order.

Other Conditions imposed:

no contact with victim or co-defendant

the motion has either been withdrawn or counsel failed to appear at the time this matter was scheduled; therefore, the motion is denied and shall not be rescheduled except as ordered by this Court.

this bond matter was previously heard in the circuit court; the court declines to modify the order of another circuit judge and the request is denied.

The defendant shall not be released until execution and filing of the appropriate bond documents with the Court.

IT IS SO ORDERED

[Signature]
Presiding Judge Date Ordered 11/16/13

cc: Jail Sol PO

KWR

AFFIDAVIT OF SURRENDER OF DEFENDANT BY SURETY

STATE OF SOUTH CAROLINA

Amount of Bond: 100,000

S.S.N.: [REDACTED]

D.O.B.:

Radu E Renciu
Defendant

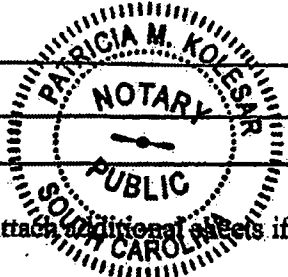
By: Second chance Bail Bond
Date of Bond: 3/21/2014

SURE: Leona L Zanders
Surety

PERSONALLY APPEARED BEFORE ME, the undersigned surety/deponent, who being duly sworn, states that he is duly authorized representative of Second chance Bail Bond Surety Company, who is contracting as surety for the above named defendant on the following ticket warrant indictment number(s) and charges: Burglary - 1st Degree Burglary (non-violent) 2nd degree
2013A0820200650 2013A0820200651

Defendant was incarcerated by surety/deponent for a violation or imminent violation of a specific term(s) of the bond as sworn to below. Surety/deponent states under penalty of perjury that the information contained in this affidavit constitutes good cause for the immediate incarceration of defendant.

Defendant was incarcerated by surety/deponent law enforcement as the result of a bench warrant for violation of a specific term(s) of the bail bond as stated in the bench warrant and sworn to below.



Attach additional sheets if necessary.)

Sworn to and Subscribed before me this 8 day of October, 2014.
Patricia M. Kolesar
Notary Public for South Carolina
My Commission expires 03/19/2017

Leona L. Zanders
Signature of Surety/Deponent
Second chance Bail Bond
Surety Company

I have received custody of the above named defendant pursuant to immediate incarceration by surety bench warrant and the defendant will remain in custody until such time as notice concerning defendant is received from clerk of court or court of competent jurisdiction.

Officer: [Signature] Date: 10-08-14
Detention Facility for the: County Municipality of _____

.. Second chance

[Handwritten signature/initials]

Dwm

FILED BAIL PROCEEDING FORM II

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

14 MAR 21 AM 10:32

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA
v. **JARY P. BROWN**
CLERK OF COURT
BERKELEY COUNTY, S.C.

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

RADU E. RENCIU
NAME OF DEFENDANT

Offense Charged: Burglary-1st Degree and Burglary (Non-Violent) 2nd Degree

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- The release of the defendant on recognizance will not reasonably assure his appearance as required.
- The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact: _____

[Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows:

CASH IN LIEU OF BOND

The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of _____ his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State.

APPEARANCE RECOGNIZANCE WITH SURETY

The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of \$100,000.00.

3. That the defendant shall appear at (check one):

the term of COURT OF GENERAL SESSIONS beginning on Friday, May 09, 2014 at 2:30 o'clock, PM, at 300 CALIFORNIA AVE. MONCK'S CORNER, SC 29461 and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

the session of MAGISTRATE COURT beginning on _____ at _____ o'clock, _____ at _____ If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.

SIGNATURE OF JUDGE

DATE

2013A 0820200650
2013A0820200650

Criminal Charging Document No.

BAIL PROCEEDING
FORM II

STATE OF SOUTH CAROLINA
COUNTY OF Berkeley

IN THE COURT OF GENERAL SESSIONS
 MAGISTRATE COURT
 MUNICIPAL COURT OF _____

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

v.
Radu Eugene Renciu
NAME OF DEFENDANT

Offense Charged: Burglary - 1st Degree + Burglary 2nd degree
~~(NON-VIOLENT)~~

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- The release of the defendant on recognizance will not reasonably assure his appearance as required.
- The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact: Burglary 1st Dec -
law requires defendant be held w/o
board

(Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.)

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows:

CASH IN LIEU OF BOND

The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State.

APPEARANCE RECOGNIZANCE WITH SURETY

The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of \$10,000

3. That the defendant shall appear at (check one):

the term of COURT OF GENERAL SESSIONS beginning on November 8th 2013
at 2:30 o'clock, PM; at 300 California Ave Moncks Corner SC 29461
and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

the session of MAGISTRATE COURT MUNICIPAL COURT beginning on _____
at _____ o'clock, M, at _____
If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT X (R)

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.

[Signature]
SIGNATURE OF JUDGE

9-18-2013
DATE

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

 ADDRESS

 CITY/STATE/ZIP TELEPHONE

 SOCIAL SECURITY NUMBER DRIVER'S LICENSE OR ID NUMBER ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

 SIGNATURE OF DEFENDANT

 DATE *sep, 18, 2013*

SPECIAL CONDITIONS OF RELEASE

a. Placement in custody. The defendant is placed in the custody of: _____
NAME OF PERSON OR ORGANIZATION

 ADDRESS CITY/STATE ZIP TELEPHONE
 who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

 SIGNATURE OF CUSTODIAN (IF APPROVED) DATE

b. Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions: _____

c. Part-time Release. The defendant will be released from custody from _____ o'clock, _____ to _____ o'clock, _____
on _____ on condition that he return to the custody of _____
at _____ as designated.
DATE(S) LOCATION NAME OF PERSON OR ORGANIZATION

d. Other Conditions. The defendant will comply with the following other conditions of release: _____

APPEARANCE RECOGNIZANCE WITH SURETY

On the _____ day of _____, _____, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of _____, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

 NAME OF SURETY BONDSMAN TELEPHONE SIGNATURE OF SURETY BONDSMAN

 ADDRESS OF SURETY BONDSMAN

 CITY/STATE/ZIP SIGNATURE OF JUDGE

 NAME OF INSURANCE COMPANY DATE

 ADDRESS OF INSURANCE COMPANY

 CITY/STATE/ZIP