

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

Honorable R. Keith Kelly, Circuit Court Judge

RECEIVED

FEB 16 2017

S.C. SUPREME COURT

CHARLES EDWARD MOORE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001413

APPENDIX

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Appellate Defender

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Defense
Division of Appellate Defense
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ATTORNEYS FOR RESPONDENT

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1 STATE OF SOUTH CAROLINA)
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STATE OF SOUTH CAROLINA,)
 PLAINTIFF,)
 vs.)
 CHARLES EDWARD MOORE,)
 DEFENDANT.)

TRANSCRIPT
 OF
 RECORD
 2013-GS-42-5607, 5608
 2014-GS-42-1203
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August 27th, 2014
 Spartanburg, South Carolina

B E F O R E:

THE HONORABLE ROGER L. COUCH, Judge.

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

SCOTT SPIVEY
 ASSISTANT SOLICITOR
 Attorney for the State

JAMES CHEEK
 ASSISTANT PUBLIC DEFENDER
 Attorney for the Defendant

PAMELA E. GREEN
 Circuit Court Reporter
 Seventh Judicial Circuit

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I N D E X O F W I T N E S S E S

(There were no exhibits marked during this hearing.)

1 SOLICITOR SPIVEY: Argelius, Argelius Croft.
2 (Defendant stands.)
3 SOLICITOR SPIVEY: Durian Littlejohn.
4 (Defendant stands.)
5 SOLICITOR SPIVEY: Jose Lopez
6 (No response.)
7 THE COURT: Don't---
8 SOLICITOR SPIVEY: Are we expecting an interpreter for
9 him?
10 THE COURT: Don't see him.
11 THE OFFICER: Yeah, I left him in the jail room.
12 SOLICITOR SPIVEY: Okay. It's an interpreter plea,
13 Your Honor, and he's been left in the jail room.
14 THE COURT: All right. We'll get, we'll get to him
15 when we can.
16 Go ahead.
17 SOLICITOR SPIVEY: Charles Moore.
18 (Defendant stands.)
19 SOLICITOR SPIVEY: Chuck Satterfield.
20 (Defendant stands.)
21 SOLICITOR SPIVEY: Tamara Shoemaker
22 (Defendant stands.)
23 MR. CHEEK: Delerick Sawyer.
24 (Defendant stands.)
25 MR. CHEEK: William Boyd.

1 (Defendant stands.)

2 MR. CHEEK: Victor Oglesby

3 (Defendant stands.)

4 SOLICITOR SPIVEY: Hilton Monk.

5 MR. CHEEK: Hilton Monk.

6 (Defendant stands.)

7 SOLICITOR SPIVEY: Okay. Your Honor, I believe the
8 other three have been qualified I think on Monday.

9 THE COURT: Okay. Well, let's go ahead and call their
10 names and qualify them again.

11 SOLICITOR SPIVEY: Yes, sir, Your Honor.

12 Terrance Baldwin.

13 (Defendant stands.)

14 SOLICITOR SPIVEY: Shawnathan Jeter.

15 (Defendant stands.)

16 SOLICITOR SPIVEY: David Benado.

17 (Defendant stands.)

18 THE COURT: Thank you.

19 Please swear the defendants who are staring --
20 standing, Madam Clerk.

21 THE CLERK: Yes, sir.

22 (WHEREUPON, the defendants were placed under oath at
23 this time.)

24 THE COURT: All right. Have a seat please.

25 (Defendants comply.)

1 THE COURT: Now, if there was any defendant who either
2 failed or refused to take the oath just administered by the
3 clerk, please stand.

4 (No response.)

5 THE COURT: The record will reflect, will reflect that
6 all defendants have been sworn for purposes of my discussion
7 with you.

8 I'm going to go over some matters at this time that
9 would be the same in all of your cases should you decide to
10 offer a plea. I'm informed that you're here for that
11 purpose today.

12 Later on we'll call your name individually. You'll
13 come in front of me and I will go over the matters that are
14 specific to your case, but right now I want to see if you're
15 in a position to go forward with a plea based on some
16 general questions that I'm going to ask.

17 Now, if you're represented by a lawyer your lawyer is
18 present. If you would like to stop at any point in time and
19 talk to your lawyer, let me know. I'll be glad to stop and
20 let you consult with your attorney. You have every right to
21 consult with your attorney at every stage of a criminal
22 proceeding, and I'm sure, if your attorney feels that they
23 would like to consult with you, they'll let me know and I'll
24 allow that as well.

25 Now, I also have not yet seen the paperwork in your

1 cases. They hand that to me when your case is called.

2 I do not know whether or not the cases that you are
3 being indicted on have been -- gone to the Grand Jury or
4 not. You have a Constitutional right to have a Grand Jury
5 consider the charges against you before it comes to this
6 Court for either a trial or a plea.

7 Now, the Grand Jury doesn't decide who's guilty or
8 who's innocent. They decide whether the State has enough
9 evidence to justify the case being brought to this Court to
10 be either tried or pled.

11 Now, for that reason, the only people that appear in
12 front of Grand Juries are the people for the prosecution.
13 Defense -- defendants or their attorneys are not allowed to
14 be present in those proceedings. Those are held in secret.
15 Again, I can not take up your case unless the Grand Jury has
16 considered your case and issued a true bill on the
17 indictment and sent it here to be disposed of.

18 Now, there is one other way I can handle your case. If
19 that has not yet been, been done, you have the right to
20 waive that step in the proceedings and ask us to go forward
21 with a plea today. When I get your indictments I will know
22 the status of that indictment as to whether it's been to the
23 Grand Jury or not. We'll discuss that before we proceed in
24 your case at that time.

25 Also, when you come in front of me individually, I'll

1 be going over with you your relationship with your attorney,
2 if you are represented, to be sure that you are satisfied
3 with the services you've received thus far.

4 Now, I'm going to ask a series of questions. Again,
5 they'll be the same for all of you if you decide to later
6 plead guilty. If you have a response that you need to take
7 up with me I'll be asking that you stand. I'll need your
8 name on the record before I talk with you about the
9 questions that I've raised.

10 The first question that I have.

11 Do any of you suffer from any mental, physical, or
12 nervous problems, any conditions whatsoever, that would, in
13 anyway, affect your ability to reason, to make good
14 decisions, or to be in a position to handle your plea today?

15 If you suffer or have such a condition, please stand.

16 (No response.)

17 THE COURT: If you have taken or used any drugs,
18 medications, or other substances that would interfere with
19 your ability to make good decisions or to handle your plea
20 today, if that has occurred, please stand.

21 (No response.)

22 THE COURT: Now, if anyone has done anything to you
23 such as threaten you, put pressure on you, tried to
24 intimidate you, in other words done something to try to make
25 you offer a plea or try to force you to offer a plea, so if

1 someone has done something like that, please stand.

2 (No response.)

3 THE COURT: When you come in front of me to have -- to
4 offer a plea, that must be something that you are doing
5 freely and voluntarily. In other words, you've thought
6 about your case, you've decided that's the best way to
7 proceed, and you've made an independent and a voluntary
8 judgment to proceed with a guilty plea in your case.

9 Now, if you were to be brought in front of me later on,
10 if there would be some belief on your part or you have a
11 feeling that that would be something against your wishes or
12 something you did not want to do, please stand.

13 (No response.)

14 THE COURT: If any of you feel that you need additional
15 time in which to prepare a defense, and you would prefer
16 defending your case rather than entering a plea, please
17 stand.

18 (No response.)

19 THE COURT: If anyone has offered you anything in an
20 effort to get you to plead, please stand.

21 (No response.)

22 THE COURT: If anyone has made any promises,
23 guarantees, or assurances to you about anything in
24 connection with your plea, including, but not limited to
25 such matters as pardon, parole, probation, early release,

1 length of sentence, so if there's been any promises or
2 guarantees to you about any of those matters, please stand.

3 (No response.)

4 THE COURT: Now, later on, if you decide to offer a
5 guilty plea and I decide to accept the plea, you will be
6 giving up your Constitutional rights as they relate to the
7 charges that are before the Court. I have to be sure that
8 you know what rights you're giving up so you're doing that
9 knowingly and intelligently and freely and voluntarily.
10 We've already talked about the free and voluntary part.

11 So I want to be sure that you know that you understand
12 what Constitutional rights you're giving up by entering such
13 a plea. So I'm going to go over those rights with you right
14 now. If you have a question about any of these rights when
15 I finish or if you would like further explanation, please
16 let me know. I want to be sure that you understand what
17 rights you're giving up when you offer a guilty plea.

18 First of all, there's two of your rights that we've
19 talked about already. We'll discuss those further when you
20 come in front of me. That is the right to have an attorney
21 and, of course, the, the right to have your case presented
22 to a Grand Jury. We'll talk about that when your case is
23 presented to me later on.

24 In addition to those two Constitutional rights, you
25 have the right to request or demand a trial by a jury. Now,

1 at a jury trial, all defendants, including yourself, would
2 be presumed to be innocent. That presumption would continue
3 until the state proved your guilt to the jury, and they
4 would have to prove guilt to the jury by proof beyond a
5 reasonable doubt.

6 A defendant is not required to, in other words, a
7 defendant, defendant does not have to prove anything at a
8 trial since you're presumed innocent.

9 Also, at a trial, you'd have the right to have the
10 Clerk's Office issue subpoenas to witnesses. That would
11 require those witnesses, when served, to appear in Court and
12 possibly testify. You would have the right to confront or
13 question anyone who, in fact, did testify at your trial.
14 You'd have the right also at your trial to present all
15 defenses you have to the charges.

16 Also, at your trial, you'd be given the opportunity to
17 try to suppress any evidence the State may have against you
18 including statements that you might of made prior to that
19 time. All defendants have the right to remain silent, and,
20 at a trial, if you chose to remain silent, the judge
21 conducting that trial is required to instruct the jury that
22 your silence can not be used against you in any manner
23 whatsoever.

24 Now, those are your Constitutional rights. If there's
25 anything about those rights that you do not understand and

1 you'd like additional explanation, please stand.

2 (No response.)

3 THE COURT: If you have any questions about those
4 rights, please stand.

5 (No response.)

6 THE COURT: Now, as I indicated to you earlier, if you
7 plead guilty and I accept the plea, you'll give up those
8 rights as they relate to the charges that are before the
9 Court.

10 Now, if there's any of the rights that I just covered
11 with you that you do not want to give up in connection with
12 a plea today, please stand.

13 (No response.)

14 THE COURT: All right. There's several things I want
15 to advise you of before you proceed with a plea.

16 First of all, when you come in front of me later,
17 you're under oath concerning your communications with the
18 Court today. That oath will apply to any communications
19 that you have today with the Court. So when you come in
20 front of me, you're still under oath.

21 Also, if you have been able to negotiate a
22 recommendation from the State concerning your sentence, it
23 is a recommendation. I do consider those recommendations.
24 I generally give them great deference. However, I am not
25 required to follow those recommendations.

1 As a judge, I have the right, after hearing the facts
2 and circumstances, to sentence any defendant to the extent I
3 feel it necessary up to the maximum allowed by law.

4 Also, you have the right to appeal a guilty plea. That
5 appeal must be filed, however, within ten days of the date
6 that you receive your sentence and have entered your plea.

7 So, those are the things I wanted to make you aware of.

8 I do find that these defendants, at this point in time,
9 are qualified to proceed with a plea if they choose to do
10 so.

11 The state may call the first case you'd like to handle
12 this afternoon.

13 (WHEREUPON, other guilty pleas were completed at this
14 time.)

15 SOLICITOR SPIVEY: Charles Moore.

16 THE COURT: Yes, sir.

17 SOLICITOR SPIVEY: Your Honor, this is Mr. Moore. He's
18 here on multiple indictments.

19 He's here on Indictment 2014-GS-42-2654 for shoplifting
20 third or subsequent offense.

21 Indictment 2014-GS-42-1203 for shoplifting third or
22 subsequent offense.

23 Indictment 2013-GS-42-5607 for resisting arrest A.

24 Indictment 2013-GS-42-5608 for shoplifting third or
25 subsequent offense.

1 Indictment 2014-GS-42-3946 for attempting to furnish a
2 prisoner with contraband.

3 Indictment 2014-GS-42-2656 for shoplifting third or
4 subsequent offense.

5 Indictment 2014-GS-42-2657 for shoplifting third or
6 subsequent offense.

7 Of those indictments, Your Honor, all have been sent to
8 the Grand Jury except for one and that is Indictment
9 2014-GS-42-3946, and the defendant has initialed that he's
10 waiving presentment to the Grand Jury on that charge.

11 Your Honor, there's a restitution order that's being
12 handed up for \$116.00 due to Belk, and, Your Honor, I see,
13 just for a minute -- excuse me, Your Honor.

14 (Pause.)

15 SOLICITOR SPIVEY: Your Honor, he's represented by
16 James Cheek of the Public Defender's office.

17 THE COURT: Thank you.

18 You are Charles Edward Moore?

19 THE DEFENDANT: Yes, sir, Your Honor.

20 THE COURT: Mr. Moore, I've got several cases here.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: There's several shoplifting cases. Because
23 of your situation, each of them carries a possible ten years
24 in prison.

25 Do you know that?

1 THE DEFENDANT: Yes, sir, I understand, Your Honor.

2 THE COURT: The first one I have is 13-5608. That's a
3 shoplifting case.

4 2014-1203, that's a shoplifting case.

5 2014-2657 is shoplifting third or subsequent.

6 Next is 14-2656, shoplifting third or subsequent.

7 2014-2655, that's shoplifting third or subsequent.

8 Next is a shoplifting third or subsequent, which is
9 Case Number 14-2654.

10 So let's see how many there are.

11 There's one, two, three, four, five, six shoplifting
12 cases.

13 Is that right, Mr. Spivey?

14 Did I get that right, six shopliftings?

15 SOLICITOR SPIVEY: Yes, sir, I believe that is correct.

16 THE COURT: So they carry a total of 60 years in prison
17 potentially. Then there's a resisting arrest, Section A,
18 carries one year and/or a fine of up to \$500. And then
19 there's an attempt to furnish a prisoner with contraband.
20 That carries up to ten years and/or a fine between a
21 thousand and ten thousand.

22 Now, do you understand all the charges?

23 THE DEFENDANT: Yes, sir, Your Honor.

24 THE COURT: Does Mr. Cheek represent you on all those
25 charges?

1 THE DEFENDANT: Yes, sir, Your Honor.

2 THE COURT: I note, as I look through these, they cause
3 me a little bit of a pause here, Mr. Spivey. These are all
4 Mr. Cude's cases, but he has not signed off on these two
5 sentencing sheets.

6 SOLICITOR SPIVEY: I apologize, Your Honor.

7 THE COURT: So you---

8 SOLICITOR SPIVEY: I'll sign those sheets for him.

9 THE COURT: You may have to sign off on that for the
10 solicitor's Office. I thought I was not -- I was surprised
11 Mr. Cude missed that.

12 SOLICITOR SPIVEY: He's very thorough, Your Honor.

13 THE COURT: He generally is and that's the reason it
14 gave me some pause. I was trying to figure out what was
15 going on there.

16 MR. CHEEK: He may of been debating a dismissal, Your
17 Honor.

18 THE COURT: Mr. Cude, no, sir. I don't think so.

19 MR. CHEEK: I don't think so either.

20 THE COURT: I understand your tongue and cheek comment
21 there.

22 Okay. So now we've got those straightened out and
23 that's been signed off on. Those are cases 13-5607 and
24 14-396 -- 3946. Those have been signed off on by Mr. Spivey
25 for the solicitor's Office.

1 Now, Mr. Moore, you have the right to plead either
2 guilty or not guilty to each and every one of those charges.

3 Do you understand all those charges?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: How do you plead?

6 THE DEFENDANT: Guilty, sir.

7 THE COURT: On all of them?

8 THE DEFENDANT: Yeah, I do, Your Honor.

9 THE COURT: Mr. Cheek, have you discussed the pleas
10 with Mr. Moore?

11 MR. CHEEK: Your Honor, I have as well as Ms. Mary
12 Francis Dassel with herself and in concert with me.

13 THE COURT: I see.

14 So she's done some of the work on the cases as well?

15 MR. CHEEK: Yes, sir.

16 THE COURT: Now, Mr. Cheek, after your review of his
17 case, do you believe the -- do you agree with his decision
18 to offer that plea?

19 MR. CHEEK: I do, Your Honor.

20 THE COURT: And is he been able to assist you and Ms.
21 Dassel with his defense?

22 MR. CHEEK: He would be. Yes, sir, he did.

23 THE COURT: Mr. Moore, you're 53 years of age?

24 THE DEFENDANT: Yes, sir, just turned 53, Your Honor.

25 THE COURT: Congratulations.

1 THE DEFENDANT: Thank you.

2 THE COURT: Are you married?

3 THE DEFENDANT: No, sir, I'm divorced.

4 THE COURT: Do you have children?

5 THE DEFENDANT: Yes, sir, they older.

6 THE COURT: Okay. So you don't have any that you're
7 supporting right now?

8 THE DEFENDANT: Just my grandkids. I got a few
9 grandkids.

10 THE COURT: No, I'm talking about children.

11 THE DEFENDANT: Oh, no, sir. No, sir.

12 THE COURT: Okay. Now, do you have a job, Mr. Moore?

13 THE DEFENDANT: I were employed with Brock's Real
14 Estate Agency for---

15 THE COURT: What were you doing with Brock's Real
16 Estate?

17 THE DEFENDANT: Remodeling houses, Your Honor.

18 THE COURT: Okay. I'm gonna ask Mr. Spivey to go over
19 the facts as the state's alleging in all these charges, and
20 then I'll discuss what he tells me when he's finished.

21 Yes, sir, Mr. Spivey.

22 SOLICITOR SPIVEY: Thank you, Your Honor.

23 Your Honor, as to one of the counts, it occurred on
24 June 1st, 2013. Your Honor, defendant tried to steal
25 merchandise from Old Navy from W.O. Ezell Boulevard in

1 Spartanburg County. Your Honor, he also resisted arrest
2 when he was apprehended.

3 The defendant, when police arrived, said he was not
4 trying to steal anything. However, the store employees said
5 they saw him bring an empty bag into the store and select
6 clothing items and put that into the bag in a, in a dressing
7 room.

8 Your Honor, the officer left the defendant with loss
9 prevention officers to go retrieve her vehicle. When --
10 during that time period he attempted to run from the loss
11 prevention officers while he was suppose to be detained.

12 Your Honor, as to another case, on January 12th,
13 2014, sheriff's deputies responded to a shoplifting at the
14 Family Dollar. Deputy, went he got there, the defendant was
15 with a loss prevention officer. The defendant agreed to a
16 search of his person. They found underwear that he bought
17 from a -- that he claimed that he bought from a drug user.
18 They also found women's pajama pants and woman's slippers
19 concealed on his person. Bar code scanner confirmed that
20 some of those items had, in fact, been owned recently by the
21 store. They were from the Dollar General there.

22 On January 10th, 2014, the defendant stole items from
23 T.J. Maxx at Dorman Center Drive in Spartanburg County. An
24 employee witnessed this. When he was approached, when he
25 was approached by loss prevention, he threw a bag with

1 clothes and a drill kit at the loss prevention officer and
2 that was caught on video.

3 On January, 9th, 2014, the defendant stole men's and
4 woman's clothing of an unknown quality from T.J. Maxx, hid
5 it in a plastic bag and left the store without paying.
6 Again, that was on video and that was how he was identified.

7 On February 23rd the defendant stole pants,
8 underwear, and t-shirts at Belk's. He walked past all
9 points of sale of the store. An employee stopped the
10 defendant outside of the store. The merchandise was
11 resalable, but there was \$116.00 worth of damage to some
12 blue jeans from where the defendant had removed electronic
13 tags.

14 And, finally, on or about March 18th, 2014, the
15 defendant tried to provide marijuana to prisoners under the
16 jurisdiction of the Department of Corrections. Your Honor,
17 he was -- he approached the perimeter fence at Tyger River
18 Correctional Institute. The defendant -- prison employees
19 found five packages wrapped in black electrical tape and a
20 plastic bag nearby. The employee said the ground was wet or
21 damp due to the prior day rain, but the packages were dry.
22 It appears that the baggies were not thrown over the fence.

23 Defendant, Mr. Moore, was detained in the woods. He
24 told a Spartanburg deputy that he threw three cell phones
25 over the fence. Moore told the deputy he was throwing those

1 packages -- he was going to throw the packages, but did not.

2 Your Honor, prison employees opened the packages and
3 found in -- 6.4 grams of marijuana. They're also five cell
4 phones and chargers and 430 grams of tobacco. The defendant
5 was prosecuted in Magistrate's Court for attempting to
6 provide the cell phones and the tobacco, Your Honor.

7 THE COURT: He was -- what happened in Magistrate
8 Court?

9 SOLICITOR SPIVEY: They -- the, the attempting to
10 provide the cell phones and tobacco charges, for some reason
11 those were prosecuted in, in Magistrate's Court. So this,
12 this charge only pertains to the marijuana.

13 THE COURT: The drugs?

14 SOLICITOR SPIVEY: Yes, sir, Your Honor.

15 THE COURT: Okay. Mr. Moore, did you hear what the
16 solicitor just told me?

17 THE DEFENDANT: Yes, sir, Your Honor.

18 THE COURT: Is that the truth?

19 THE DEFENDANT: Yes, sir, Your Honor.

20 THE COURT: Have you been honest with me today?

21 THE DEFENDANT: Yes, sir, Your Honor.

22 THE COURT: Is there any part of what we've discussed
23 that you'd like to reconsider what you've told me?

24 THE DEFENDANT: No, sir, Your Honor.

25 THE COURT: So if I were to ask you the same questions

1 that I asked earlier, would I get the same answers verbally
2 at this time?

3 THE DEFENDANT: Yes, sir, Your Honor.

4 THE COURT: You're pleading guilty to these charges
5 because you are guilty of them?

6 THE DEFENDANT: Yes, sir, Your Honor.

7 THE COURT: Do you understand that by doing that you
8 give up your Constitutional rights as they relate to these
9 charges?

10 THE DEFENDANT: Yes, sir, Your Honor.

11 THE COURT: Does that cause you to want to change your
12 plea in anyway?

13 THE DEFENDANT: No, sir.

14 THE COURT: Sir?

15 THE DEFENDANT: I want to plead.

16 THE COURT: You're going to stick with your plea the
17 way it is?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right.

20 THE DEFENDANT: Excuse me.

21 THE COURT: I'm gonna accept the pleas as having been
22 freely and voluntarily given. He's aware of the charge, the
23 penalties -- charges and the penalties, had the advice of
24 counsel, says he's satisfied with that advice. There's a
25 factual basis for the plea.

1 Mr. Cheek.

2 MR. CHEEK: Your Honor, we respectfully ask the Court
3 to consider that Mr. Moore has served 235 days toward
4 sentencing in these matters.

5 Your Honor, I think, that over a period of time, my
6 client has found himself afoul of the law a number of times
7 for shoplifting, a number of times with other property
8 crimes. By my count, Your Honor, he has 12 prior
9 shopliftings and 22 other property crimes on his record.

10 Your Honor, I'd like to---

11 THE COURT: Say, say that one more time.

12 MR. CHEEK: Twelve shopliftings, 22 other property
13 crimes in addition to those---

14 THE COURT: So the 22 doesn't include the 12?

15 MR. CHEEK: No, sir.

16 THE COURT: So if we added them up we would be looking
17 at about 30 something---

18 MR. CHEEK: About 34, Your Honor.

19 THE COURT: Okay. Go ahead.

20 MR. CHEEK: But, Your Honor, we just -- looking at the
21 situation, I explained to him that he got three years---

22 THE COURT: I was intending to count those later on. I
23 appreciate you doing that for me.

24 MR. CHEEK: Yes, sir, Your Honor.

25 THE COURT: Okay.

1 MR. CHEEK: Your Honor, he got three years on a
2 shoplifting most recently. He got, I think, four years on a
3 shopliftings -- no, 12 months on a shoplifting third or
4 subsequent.

5 I've explained to him that that was mercy and that it
6 wouldn't be happening like that I don't think again, and
7 that I would come before the Court and just ask the Court to
8 do concurrent sentencing on his charges.

9 We'd ask the Court to consider that he did three years
10 one time back in 2009, but there were a lot of other charges
11 involved with that, Your Honor, and then he had a third or
12 subsequent shoplifting conviction in the last -- in 2012,
13 and, in that one, he got four years concurrent credit with
14 four months served.

15 Your Honor, I think he kind of fooled himself thinking
16 it would always be that way. We're just asking the Court to
17 be as merciful as possible in sentencing and I explained to
18 him that we didn't want to say anything to the Court that
19 might offend the Court except for ask the Court to consider
20 that, that, while we need to get his attention, we hope the
21 Court would not devastate his life at this point in time.
22 He's done a pretty good job of that himself.

23 I talked with his brother, Oscar Moore, who's over on
24 [REDACTED] [REDACTED]. Mr. Moore owns his own business and I
25 explained to Mr. Moore that, that we've done all that we

1 could do in our representation of him given the number and
2 the multiplicity of the charges, Your Honor.

3 We're asking the Court to consider concurrent
4 sentencing on everything and we'd ask the Court to consider
5 the greatest degree of mercy and leniency the Court could
6 show given he has allowed himself to be lulled into a false
7 sense regarding sentencing in these matters. We ask the
8 Court to bring his attention, but not to devastate the
9 situation, Your Honor.

10 THE COURT: All right. Mr. Moore, I'll hear from you.

11 THE DEFENDANT: Yes, sir, Your Honor.

12 First off, I would like to say I apologize to the
13 Court, and I just made a plumb fool of myself and I would
14 just like to ask the Court to give me another chance, and if
15 possible, Your Honor.

16 The reason I was doing that is I was hardheaded, but I
17 got out of work and had all kind of sickness coming upon me.
18 I caught -- got glaucoma, went blind in one eye, and when --
19 after this though I'll be able to get my disability or
20 something to help me out to live and, you know, pay whatever
21 I have to back to the stores or whoever I have to pay it
22 back to.

23 Just ask for mercy from the Court.

24 THE COURT: Did Mr. Cheek correctly state his prior
25 record?

1 SOLICITOR SPIVEY: Your Honor, he has a lengthy record.
2 I haven't counted them myself, but that -- it does appear to
3 be pretty close.

4 THE COURT: Anything with any violence involved in it?

5 SOLICITOR SPIVEY: Your Honor, if I could just have a
6 moment to scan?

7 THE COURT: Yeah, review it and let me know if you see
8 anything.

9 SOLICITOR SPIVEY: Your Honor, it's a CDVHAN in '99.
10 A '97 ABHAN.

11 MR. CHEEK: 2003, CDVHAN.

12 SOLICITOR SPIVEY: Yes, CDVHAN in 2003.

13 In '85, aggravated assault and battery, and that
14 appears to be the---

15 THE COURT: Fairly old things?

16 SOLICITOR SPIVEY: Yes, sir, Your Honor.

17 MR. CHEEK: Yes, sir, Your Honor. I'm not sure, under
18 the statute, any of those indicates any kind of---

19 THE COURT: I'm just trying to be sure that we're not
20 dealing with that sort of thing.

21 MR. CHEEK: No, sir, Your Honor. His brother said,
22 Mr. Moore, said he needed mental health counseling. But I
23 suggested that they had plenty of time to look into that.
24 That's not what he---

25 THE COURT: Well, he's 53 years old and his record goes

1 back to when?

2 SOLICITOR SPIVEY: In 1981, Your Honor.

3 THE COURT: Okay. They've had a little time to look
4 into that --

5 MR. CHEEK: Yes, sir.

6 THE COURT: -- if they wanted to.

7 You want to say something else?

8 THE DEFENDANT: Yes, sir, Your Honor. I put in for
9 that at the jail and they come and see -- came to see me,
10 the mental health center.

11 THE COURT: Good.

12 THE DEFENDANT: And they prescribed me some medicine,
13 but I couldn't get it approved at the jail. So once I do
14 get released, I'll go follow-up on that.

15 THE COURT: Thank you, sir.

16 (Pause.)

17 THE COURT: Mr. Moore?

18 THE DEFENDANT: Yes, sir, Your Honor.

19 THE COURT: Quite a record you have there, sir. Over
20 30 convictions and here I'm looking at probably another
21 eight or so of them.

22 At some point in time -- Mr. Moore, we call the place
23 where we send people in prison the Department of Corrections
24 --

25 THE DEFENDANT: Yes, sir.

1 THE COURT: -- because we send people there to
2 hopefully correct their behavior.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You apparently have been in the system for
5 sometime and you don't intend to correct your behavior. You
6 have not done a thing about it. What you've done is
7 continued to offend at multiple locations, and I'm, I'm
8 confident that you have not been caught every time you've
9 committed the crime of shoplifting. I'm confident of that.
10 Common sense would tell me that you didn't get caught every
11 time or you'd quit doing it.

12 So you must see that there's a chance of, of some gain,
13 but I hope you realize, and maybe you don't realize, that
14 your crimes cost everybody in this state or anybody who
15 walks into a store and buys merchandise. It costs everyone
16 money because stores don't lose money on that. They just
17 raise their prices when people do that. We all pay for that
18 sooner or later, those of us who pay for what we get. I'm
19 sure that's not a concern of yours cause you apparently
20 don't pay for what you get.

21 I've said all I need to say. At some point in time it
22 becomes clear that the -- that we're not gonna correct your
23 behavior by doing anything. So we need to take you out of
24 society so that it will not happen to us again.

25 The sentence in these cases, all of -- all of the

1 shopliftings, ten years run currently.

2 On the attempting to furnish a prisoner with
3 contraband, three years run consecutively.

4 on the resisting arrest, one year run concurrently. I
5 did sign the restitution order, but I've not provided for
6 any probation.

7 Good luck, sir.

8 MR. CHEEK: Thank you, Your Honor.

9 SOLICITOR SPIVEY: Thank you, Your Honor.

10

11 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 27th day of August, 2014.

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

April 30th, 2015



PAMELA E. GREEN, Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF Spartanburg)

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

Charles F Moore 244412)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2015-CP-42-11447

APPLICATION FOR

POST-CONVICTION RELIEF

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 concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Spartanburg County Jail
2. Name and location of Court which imposed sentence Spartanburg County Courthouse
3. Name(s) of co-defendant(s) (if any) 0
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 14-ES. 4202654

(b) 14-ES. 423946

(c) —

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

(a) 8/27/14 10 years Running Convictive

(b) 8/22/14 3 years

2015 APR -9 AM 9:46
M. HOPE EL. ACTING CLERK

(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. NA
- ii. _____
- iii. _____

(b) the result in each such Court to which you appealed:

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

(c) the date of each such result:

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

(d) if known, citations of any written opinion or orders entered pursuant to such results:

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

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) NO appeal was filed at this time
- (b) _____
- (c) _____

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

2015 APR -9 AM 9:46
 HONORABLE CLERK

(a) Ineffective Assistant Counsel

(b) _____

(c) _____

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

(a) Counsel force me to plea to this sentence, and I was misled by my Counsel. say if I didnt plea, that he would take my to trial.

(b) _____

(c) _____

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

(a) any petition in a State Court under South Carolina Law? NA

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NA

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NA

(d) any other petitions, motions or applications in this or any other Court? NA

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. NA

iii. _____

iv. _____

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

i. _____

ii. _____

iii. NA

iv. _____

(c) the disposition thereof:

i. _____

ii. NA

iii. _____

2015 APR -9 AM 9:47
M. ROSE CR. CLERK

iv. _____

(d) the date of each such disposition:

i. _____

ii. NA

iii. _____

iv. _____

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

i. _____

ii. NA

iii. _____

iv. _____

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

NA

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

(a) which grounds have been presented:

i. _____

ii. NA

iii. _____

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

i. _____

ii. NA

iii. _____

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

(a) _____

(b) NA

(c) _____

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

2015 APR -9 AM 9:47
J. HOPE BLANCHARD

- (a) your arraignment and plea? yes

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

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. James Cheeks (Public Defender)
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. General Session Court Spartanburg County
 - ii. _____
 - iii. _____

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

I seek for my sentence to be run concurrent, and change from Volint to Volint.

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

NA

2015 APR -9 AM 9:47
M. HOFFEL (A/E/L/E)

STATE OF SOUTH CAROLINA)

VERIFICATION

County of)

Charles Moore)

I, Charles Moore, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

244412
Charles E Moore

SWORN to and subscribed before me this 20th
day of March, 2015.

Ludeman Bryant (L.S.)
Notary Public

*My Commission Expires: May 20, 2020

2015 APR -9 AM 9:47
U. HOPE BI AGENCY

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

Charles Moore 244412

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

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

Charles E Moore
244412
Applicant

SWORN or affirmed to and subscribed before me this
20th day of March, 2015.

Richard Bryant
Notary Public

My Commission Expires: May 26, 2020

2015 APR -9 AM 9:47
141025 BIAJ00107

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)	
Charles E. Moore, #244412,	)	Case No. 2015-CP-42-1447
)	
Applicant,	)	RETURN
)	
v.)	
)	
State of South Carolina,)	
)	
Respondent.)	

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed April 9, 2015, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Spartanburg County. Applicant was subsequently indicted at the June 2014 term of Spartanburg County Grand Jury for five counts of shoplifting, third or subsequent offense (2014-GS-42-1203, -2654, -2655, -2656, and -2657).¹ Applicant waived presentment to the grand jury on attempt to furnish contraband to a prisoner (2014-GS-42-3946). James Cheek, Esquire, represented Applicant. On August 27, 2014, Applicant pleaded guilty as indicted.² The Honorable Roger L. Couch, sentenced Applicant to imprisonment for concurrent terms of 10 years on each count of shoplifting and a consecutive term of three years imprisonment for attempt to furnish contraband to a prisoner. Judge Couch also sentenced Applicant to a concurrent term of one year for the resisting arrest charge. Applicant did not appeal his plea or sentence.

¹ Applicant was also indicted in 2013 for resisting arrest (2013-GS-42-5607), and shoplifting, third or subsequent (2013-GS-42-5608). Applicant pleaded guilty to these charges in the same proceeding, but did not list them in his Application.

² Applicant only lists indictment numbers 2014-GS-42-2654, and 2014-GS-42-3946 in this Application for PCR.

Attached herewith and incorporated herein by reference are the records of the Spartanburg County Clerk of Court regarding the subject convictions, the transcript of Applicant's plea, and Applicant's records from the Department of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

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

1. Ineffective Assistance Counsel, in that:
 - a. "Counsel force[d] me to plea[d] to this sentence, and I was mis[led] by my counsel."
 - b. [Counsel] sa[id] if I didn't plea[d] that he would take [me] to trial."

III.

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, 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 the trial 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; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under 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, he would not have [pleaded] guilty, but would have insisted on going to trial.” Thompson v. State, 340 S.C. 112, 116, 531 S.E.2d 294, 297 (2000).

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.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegation of ineffective assistance of counsel. As to any other allegations, Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

V.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code Ann. § 17-27-10 *et seq.*; Rule 71.1, SCRCP.

All claims should be made well in advance of the PCR hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. Rule 11, SCRCF. Filings by Applicant will not be considered at the PCR hearing.

VI.

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

VII.

WHEREFORE, having made its Return, Respondent requests that a hearing be held solely on the claim of ineffective assistance of counsel.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

ALICIA OLIVE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

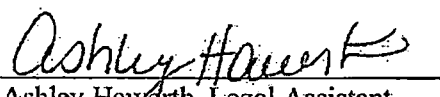
Dec. 18th, 2015

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)	
)	
	)	2015-CP-42-1447
CHARLES E. MOORE, #244412,)	
)	
Applicant,)	
)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	
)	

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:

Mr. John Brandt Rucker, Esquire
Brandt Rucker Attorney At Law
522 North Church Street
Greenville, SC 29601

DATED this 18TH day of December, 2015.



 Ashley Haworth, Legal Assistant
 For Respondent

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STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)	
CHARLES E. MOORE)	
)	
APPLICANT,	)	TRANSCRIPT OF RECORD
	)	2015-CP-42-01447
-vs-)	
	)	MARCH 22, 2016
STATE OF SOUTH	)	SPARTANBURG, SOUTH CAROLINA
CAROLINA,)	
)	
RESPONDENT.)	

B E F O R E:

THE HONORABLE R. KEITH KELLY, JUDGE.

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

J. BRANDT RUCKER, ESQUIRE
ATTORNEY FOR THE APPLICANT

ALICIA A. OLIVE, ASSISTANT ATTORNEY GENERAL
ATTORNEY FOR THE RESPONDENT

MICHAEL R. WATTS
CIRCUIT COURT REPORTER

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NO. DESCRIPTION

(NO EXHIBITS MARKED)

ID. EV.

1 (PROCEEDINGS, MARCH 22, 2016).

2 THE COURT: It's not the same one?

3 MR. RUCKER: He doesn't believe that he was
4 represented by you.

5 THE COURT: I didn't recognize him, but I had
6 someone with a similar name and I thought it might be Mr.
7 Moore.

8 MS. OLIVE: May it please the court, Your Honor?

9 THE COURT: Yes, ma'am.

10 MS. OLIVE: This is Charles E. Moore, docket
11 number 2015-CP-42-1447.

12 Mr. Moore was indicted in June of 2014 for five
13 counts of shoplifting, third or subsequent offense. He
14 waived presentment to the Grand Jury on -- he also waived
15 presentment to the Grand Jury on attempt to furnish
16 contraband to a prisoner.

17 James cheek represented him.

18 On August 27th, 2014 he pleaded guilty as
19 indicted.

20 And I would also note that he only was -- he was
21 also indicted in 2013 for resisting arrest and shoplifting,
22 third or subsequent. He also pled guilty to those charges
23 in the same proceeding, but he -- those charges are not
24 listed in his application for post-conviction relief.

25 He pleaded guilty before Judge Roger Couch. Judge

1 Couch sentenced him to concurrent terms of ten years on each
2 count of shoplifting and consecutive term of three years for
3 attempt to furnish contraband to a prisoner. And Judge
4 Couch also sentenced him to a concurrent term of one year
5 for resisting arrest.

6 He did not appeal his plea or sentence.

7 Your Honor, he filed this application for
8 post-conviction relief on April 9th, 2015, in which he
9 alleges ineffective assistance of counsel, in that counsel
10 forced him to plead guilty -- or, I'm sorry, counsel forced
11 him to plead to a sentence, that he was misled by counsel,
12 and counsel said if he didn't plead, that he would take him
13 to trial.

14 Your Honor, Mr. Moore is present in the courtroom
15 today and he's represented by Brandt Rucker, and I'll turn
16 it over to Mr. Rucker at this time.

17 THE COURT: Mr. Rucker.

18 MR. RUCKER: Your Honor, I'll call my client to
19 the stand, Charles Moore.

20 THE COURT: Mr. Moore, come forward, please, sir.

21 CHARLES E. MOORE, having been first duly sworn,
22 testified as follows:

23 THE COURT: All right, sir.

24 Sir, have a seat. Please be careful.

25 Mr. Moore, please tell us your full name for the

1 record, please.

2 THE WITNESS: My name is Charles Edward Moore.

3 THE COURT: Thank you, Mr. Moore.

4 Yes, sir.

5 MR. RUCKER: If it please the court.

6 DIRECT EXAMINATION BY MR. RUCKER:

7 Q. Mr. Moore, you heard previously the Assistant Attorney
8 General say that some of your charges you pled guilty to
9 that you did not list on your application. Did you believe
10 that you were including all your charges when you wrote out
11 the application?

12 A. Yes, sir.

13 Q. Are you challenging all of those convictions?

14 A. Yes, sir.

15 Q. Okay. Who was your attorney at trial -- at plea?

16 A. Mr. James Cheek, sir.

17 Q. Did you have another attorney during this?

18 A. Yes, sir, Mrs. Mary Dassel, if I'm not mistaken.

19 Q. And were both of them assigned by the Public Defender's
20 Office?

21 A. Yes, sir.

22 Q. What is your current sentence that you are serving?
23 Let's make that clear.

24 A. Ten years and three years running while consecutive.

25 Q. Three years consecutive?

1 A. Yes.

2 Q. Do you know when your max-out day is?

3 A. 2021 -- 2020.

4 Q. Okay. Your previous attorney before Mr. Cheek, what
5 was her name again?

6 A. Mrs. Mary Dassel.

7 Q. How long did she represent you in your case?

8 A. She represented me during all the time that I was
9 arrested when she first came and saw me.

10 Q. Were you in jail the whole time?

11 A. Yes, sir.

12 Q. All right. How many times did she meet with you during
13 that time?

14 A. She met with me twice, sir.

15 Q. Did y'all go over the discovery that the solicitor's
16 office had against you?

17 A. Yes, sir.

18 Q. All right. And how long did you get to look at that
19 discovery?

20 A. About maybe fifteen minutes, or twenty.

21 Q. Did you feel like you had enough time to review that
22 material?

23 A. No, sir. No, sir, I don't feel like it was enough
24 time.

25 Q. Did you attempt to communicate with the Public

1 Defender's Office to try to get another meeting with her?

2 A. Yes, sir, I did.

3 Q. How did Mr. Cheek get involved in your case?

4 A. Well, I just wrote and I asked could they appoint me
5 out another lawyer because I had been in jail for a long
6 period of time and I wanted to get out and that's how Mr.
7 Cheek got involved.

8 Q. Do you recall how long you were in jail?

9 A. It was -- well, they gave me 230 some days -- 32 days
10 good time. It was at least eight months, sir.

11 Q. Okay. Do you believe you got credit for that as part
12 of your sentence?

13 A. Yes, sir, I got credit for that.

14 Q. How many times did you meet with Mr. Cheek before your
15 guilty plea?

16 A. How many times? Only twice. And when I met with him,
17 him and Mrs. Mary Dassel, they came over together.

18 Q. Okay. And what did they tell you when you got there --
19 or when they got there?

20 A. They was telling me to go on and plead guilty, which I
21 wasn't ready to plead guilty, sir.

22 Q. To your knowledge, were you on the trial docket at that
23 point?

24 A. Yes, sir. Once before I was. Once I was when Mrs. --
25 before Mr. Cheek got involved.

1 Q. Okay. And what happens with that trial week? Was
2 it -- I'm assuming it was continued?

3 A. Well, she -- I asked her why did she take me off the
4 trial docket. You know, she told me because the witness
5 didn't show up, and I'm -- I'm pleading guilty to the charge
6 but why should have a witness --

7 Q. Was it your intent to plead guilty that week?

8 A. Yes, sir. She had -- yes, sir.

9 Q. And you are not saying the victim wasn't there, but a
10 witness wasn't there?

11 A. Yes, sir.

12 Q. And who was the judge for that week, do you know?

13 A. Sir, I can't recall the judge. He was a traveling
14 judge.

15 Q. Why did you want to plead guilty that week?

16 A. Because -- why did I? Because I felt that he would be
17 more lenient than the judge, Judge Couch, that I went in
18 front of, sir.

19 Q. Was that based on advice from your attorney?

20 A. Go in front of him, yes, sir.

21 Q. Not Couch, but the other judge?

22 A. The other judge?

23 Q. Did your attorney advise you it was better to go in
24 front of the traveling judge?

25 A. She changed so quick, sir. She changed her mind so

1 quick, and, you know, I -- she wanted me to stay in jail
2 longer to go in front of Judge Couch.

3 Q. Okay. And did she tell you why it was better for you
4 to sit in jail longer?

5 A. Yes, sir.

6 Q. And why was that?

7 A. To get some time under my belt.

8 Q. Okay. When you went in front of Judge Couch was she
9 there?

10 A. Yes, sir, she was there.

11 Q. Did you believe that you were going forward with the
12 trial, or did you think that was a guilty plea?

13 A. Guilty plea.

14 Q. Okay. Did you, in fact, go forward with that guilty
15 plea?

16 A. Yes, sir.

17 Q. Was Mr. Cheek your attorney at that point?

18 A. Yes, sir, and she was in the courtroom too.

19 Q. Okay. Tell the judge specifically what you believe Mr.
20 Cheek or the other public defender did incorrectly in your
21 case.

22 A. Incorrectly or -- I asked her when she was in the
23 courtroom to go in front of the judge with me and she said
24 Mr. Cheek know enough about my case to carry me forward in
25 front of Judge Couch and she said she got something she

1 needed to go do, but I prefer that she going up because she
2 know more about my case than Mr. Cheek did, because it was
3 only -- you know, as far as I know Mr. Cheek just probably
4 looked -- he did review, but not the way she had.

5 Q. Did you tell her you wanted her to go forward and not
6 Mr. Cheek?

7 A. Yes, sir, I did.

8 Q. And how did she respond to that?

9 A. She responded, she said Mr. Cheek, he know about the
10 case and she have something she needed to go do.

11 Q. What did Mr. Cheek not do correctly for you?

12 A. What did Mr. Cheek not do correctly?

13 Q. Right.

14 A. He did not talk for me. He talked against me.

15 Q. Okay. And the judge was going to have the transcript
16 to review, but this is your chance to tell him specifically
17 what he did wrong.

18 A. Yes, sir. He told the judge that I had did five years
19 before for shoplifting -- for, excuse me, for shoplifting,
20 which I never did five years before for shoplifting.

21 Q. Do you believe that enhanced, that got you more time
22 through Judge Couch?

23 A. I believe it did, sir.

24 Q. And do you think if the other attorney would have gone
25 forward she would have known that you hadn't done five years

1 on shoplifting before?

2 A. Yes, sir.

3 Q. Had you done time before?

4 A. Yes, sir.

5 Q. And what were those -- what was that based on?

6 A. It was different charges, but I went once before for
7 shoplifting for a year. Only a year.

8 Q. Did Mr. Cheek tell Judge Couch that?

9 A. No, sir, he did not.

10 Q. Okay. What else did he -- is that specifically what
11 the big problem is that he had misadvised the judge about
12 your prior criminal history?

13 A. Yes, sir, that's -- that's one of the problems, but --

14 Q. Okay.

15 A. -- I asked him would he help me out, you know, to talk
16 to the judge and he did not do that. He talked against me.

17 Q. And other than getting this previous criminal history
18 wrong, what did he say wrong to the judge? How did he talk
19 against you?

20 A. Well, it wasn't nothing good that he said to help me
21 out, you know, lessen the charge that I did. I didn't
22 realize that I really was pleading guilty to all the
23 charges. I pleaded -- they told me zero to twenty and the
24 solicitor ain't going to make no deals.

25 Q. Okay. So you didn't have an offer before you went in?

1 A. That was --

2 Q. Just the range?

3 A. Yes.

4 Q. A range from zero to twenty?

5 A. Yes, sir.

6 Q. Why were you willing to plead guilty at that point if
7 you were looking up to twenty years?

8 A. I didn't want to plead guilty to that. I was -- they
9 said if I didn't plead guilty, I would have a jury trial.

10 They would come in and have a jury trial.

11 Q. Did you think they had sufficient evidence against you
12 to get you convicted?

13 A. Yes, sir. On a jury trial, yes, sir.

14 Q. And is that why you pled guilty?

15 A. Yes, sir.

16 Q. Do you remember talking to the judge, the judge asking
17 you questions about whether you were freely and voluntarily
18 entering into the plea?

19 A. Uh-huh.

20 Q. You do? Is that yes or not, just for the court
21 reporter?

22 A. Yes, sir. Yes, sir.

23 Q. Why do you not believe that you were freely and
24 voluntarily entering the plea at this point?

25 A. Excuse me, sir?

1 Q. I'll rephrase it.

2 Why did you feel forced to go forward with the plea?

3 A. Because the way Mrs. Mary Dassel and Mr. Cheek, they
4 came over to the detention center like they was demanding me
5 or taking this -- taking this -- I mean, you know, going on
6 and pleading guilty or I'm going to get more time, you know.
7 It's nothing they can do about it.

8 You know -- and my brother, he had hired -- was getting
9 ready to hire me a lawyer the following week that I went to
10 court and I had him -- well, he came up to the detention
11 center when Mr. Cheek and Mary Dassel had me in the
12 conference room talking to me and then Mr. Check said
13 "that's too much money for somebody to hire a lawyer." And
14 I said "well, my brother is going to hire Mr. Michael
15 Brown." And as that time Mr. Michael Brown came in and they
16 asked him and Mr. Michael Brown said yes, he was waiting for
17 my brother to bring him some money the following week. He
18 would take my case. And then that following week they had
19 me in the courtroom.

20 Q. Did you -- why didn't you tell the judge then that you
21 were trying to hire another lawyer?

22 A. Well, sir, I -- I didn't think that he would believe
23 me.

24 Q. Okay. Did you talk to your attorneys about trying to
25 hire Michael Brown?

1 A. Yes, sir.

2 Q. Did you tell them to tell the judge that you were
3 trying to hire another lawyer?

4 A. They know, yes, sir.

5 Q. And you had done nothing to get the case delayed before
6 yourself?

7 A. No, sir.

8 Q. This was the first time that you were asking for a
9 delay, simply to get your own private attorney?

10 A. Yes, sir.

11 Q. Okay. So you believe if you would have had him, you
12 would have had a better result here?

13 A. Yes, sir, because -- I apologize, but I'm just going to
14 speak out what the private attorney told me. He told me if
15 I would have hired -- if I -- he told me that he would get
16 me probation, if I -- if he would have been my lawyer. That
17 was before I got tried.

18 Q. Okay. Are there any other complaints that you have
19 about Mr. Cheek or Mrs. Dassel?

20 A. Yes, sir, I could have got out of jail on bond and she
21 refused to carry me up for a bond reduction.

22 Q. All right. You wanted out, but she decided you
23 shouldn't get out?

24 A. Yes, sir.

25 Q. And why do you believe -- why do you believe that you

1 would have been successful with the bond reduction hearing?

2 A. Because I would have got out and could have -- I would
3 have got a lawyer, you know. I don't think I would have got
4 as much time that I have now if I would have gotten a paid
5 lawyer.

6 Q. Okay. Going back to the discovery issue we talked
7 about, were you able to watch the videotape from T.J. Max?

8 A. Yes, sir.

9 Q. And tell the judge what that -- that's available in the
10 property, but tell the judge what that would show.

11 A. Your Honor, me and Mrs. Mary Dassel, we decided and
12 looked at the tape and we looked at it very carefully. I
13 went into the store and I was walking around and I came back
14 out of the store without anything. Mrs. Mary Dassel just
15 say "I don't see how they can try you on this. You didn't
16 have anything. You didn't -- a bag or anything."

17 I didn't even -- that was on the 9th and I didn't have
18 anything. I didn't do anything. I just walked out of the
19 store, but still I was indicted and tried for that charge.

20 Q. Did you talk to her about trying to at least get that
21 one dismissed?

22 A. Yes, sir, I did.

23 Q. And did she try -- to your knowledge, did she negotiate
24 with the solicitor's office to get that one charge
25 dismissed?

1 A. To my knowledge she didn't do anything for me, sir.

2 Q. Do you think pleading guilty to that case, that charge,
3 enhanced the amount of time that you got?

4 A. Yes, sir, I believe that hurted me more because I -- I
5 didn't do anything, you know, didn't pick up anything.

6 Q. Okay. Have we gone over everything that you want to go
7 over with the judge?

8 A. Yes, sir, Your Honor.

9 Q. Okay.

10 MR. RUCKER: No further questions.

11 THE COURT: All right.

12 Yes, ma'am, Ms. Olive.

13 MS. OLIVE: If it please the court, Your Honor.

14 CROSS EXAMINATION BY MS. OLIVE:

15 Q. Good morning, Mr. Moore.

16 Now, there has been a lot of talk about Mary Dassel,
17 but you didn't name her in your application, correct? And I
18 apologize if I'm pronouncing her name incorrectly, but the
19 other lawyer apparently that you say was representing you is
20 not named in your application, correct?

21 A. Some notes that I wrote my lawyer and I put her name
22 down, ma'am, but, you know, I'm -- I'm new to this, Your
23 Honor, and I don't know specifics, you know, how it went,
24 but I was new to it and I wanted to come back to court on my
25 PCR to prove that some things -- that things didn't go

1 right. Not on my behalf, not that I wanted someone to give
2 me something. I just wanted some truth out of this and some
3 relief on this time, because I really feel that I got too
4 much time for what I did.

5 Q. Okay. So you are just unhappy with the time that you
6 got?

7 A. No, ma'am, I'm unhappy with the way I was treated by
8 the way I got my time, by the way I was sentenced by the
9 ones who recommended me to this time.

10 Q. Okay. But at your guilty plea hearing the judge went
11 over the charges with you, correct? You knew what charges
12 that you were facing?

13 A. Yeah.

14 Q. And you knew the potential sentences to these charges,
15 correct?

16 A. Well, he read the potential sentence out to me, ma'am.

17 Q. And he told you if he sentenced you consecutively, he
18 could potentially sentence you up to sixty years in prison,
19 correct?

20 A. He told me I was looking at sixty years in prison, yes,
21 ma'am.

22 Q. Okay. And you testified that Ms. Dassel -- excuse me
23 again if I'm pronouncing her name incorrectly, Dassel, Ms.
24 Dassel was not present at your guilty plea hearing, is that
25 correct?

1 A. She was present at my guilty hearing.

2 Q. Okay. So she was at your guilty plea hearing?

3 A. She was at the -- yes, ma'am, she was here at the
4 table.

5 Q. Okay. You didn't -- didn't you testify before, though,
6 that she said she had something else to do and couldn't be
7 there?

8 A. Well, she was standing right beside me. I asked her to
9 go up in front of Judge Couch with me and she said Mr. Cheek
10 know enough about my case. Then she said she got something
11 she needed to go do and she left out of the courtroom.

12 Q. But she was present that day?

13 A. She was present.

14 Q. Okay. And Mr. Moore, you testified that she did go
15 over discovery with you, correct?

16 A. Yes, ma'am.

17 Q. Okay. Did Mr. Cheek also go over that discovery with
18 you?

19 A. No, ma'am. No, ma'am.

20 Q. But you did review the video from T.J. Max?

21 A. With Mrs. Mary Dassel.

22 Q. Okay. And did you discuss with your attorney your
23 version of the facts of what happened?

24 A. Yes, ma'am, she discussed her -- the way she looked at
25 the tape, you know. We discussed each -- we did discuss the

1 matters to each other about that specific case there.

2 Q. Okay. So she went over the discovery with you and gave
3 her advice -- gave you her advice concerning that?

4 A. Yes, ma'am.

5 Q. Did she discuss with you any -- did she excuse with you
6 any potential defenses you might have to those charges,
7 correct?

8 A. For that charge at T.J. Max?

9 Q. All of the charges. You had five, correct?

10 A. Uh-huh. Yes, ma'am, excuse me.

11 Q. Okay. Now, at your guilty plea the judge -- excuse me,
12 the solicitor told the judge the facts surrounding these
13 shoplifting charges, correct?

14 A. If I'm not mistaken, ma'am, he just read the charges
15 off. I -- I imagine that, you know, I was such in a shock
16 going through this, I -- I just heard him read the charges
17 off.

18 Q. Okay. But he discussed -- I mean, he explained -- I
19 mean, there were five -- four different stores, right?
20 There was Old Navy, Family Dollar, T.J. Max, and Belks.
21 There was two incidences at T.J. Max, is that what you
22 recall?

23 A. Yes, ma'am.

24 Q. And the solicitor explained those incidences to the
25 judge, correct?

1 A. From my knowledge, I don't think -- I don't think I
2 heard him did. The only thing I heard was how -- what I'm
3 charged with and how many charges I had, but when I got to
4 Tyger River I had more than eight -- I mean, I had eight
5 warrants.

6 Q. Okay. Would it refresh your memory if I showed you the
7 transcript of your guilty plea hearing?

8 A. Oh, you can ask me what you would like to, ma'am, you
9 know. That's just a mix-up when you said did the
10 solicitor -- he read my charges off. I know he did that,
11 ma'am.

12 Q. Okay. But you don't remember him explaining the
13 shoplifting counts that occurred, what you took, what you
14 they alleged that you took, the dates that those occurred
15 on, you don't recall that?

16 A. (No response).

17 Q. I'm happy to show you the transcript, if that will
18 refresh your memory.

19 A. Yes.

20 MS. OLIVE: May I approach the witness, Your
21 Honor?

22 THE COURT: Yes, ma'am.

23 MS. OLIVE: Okay. And I'm showing Mr. Moore page
24 18 of the transcript, beginning with line 22.

25 A. Well, ma'am, if that's the transcript from my case, I'm

1 quite sure he said the words -- you know, he said what's on
2 that, you know. I just couldn't remember that he said he
3 went in the store and he took that and then they -- you
4 know?

5 BY MS. OLIVE:

6 Q. Okay.

7 A. That's just --

8 Q. So you do --

9 A. I remember he --

10 Q. So you agree with me that he read the facts into the
11 record regarding these shoplifting accounts?

12 A. If that's the transcript, I'm quite sure he read -- you
13 know.

14 Q. Okay. Yes. I'm showing you the transcript.

15 A. Ma'am, excuse me, I'm not disrespecting you, but I got
16 glaucoma. I can't see that well --

17 Q. Okay.

18 A. -- but I'm quite sure that he read them off to me, you
19 know, if it's on there.

20 Q. Okay.

21 MS. OLIVE: Well, Your Honor, I attempted to show
22 Mr. Moore pages 18 through 21 of the transcript, Your Honor.

23 BY MS. OLIVE:

24 Q. And Mr. Moore, do you remember the court asking you if
25 you heard what the solicitor had told him regarding these

1 shopliftings accounts?

2 A. Yes, ma'am.

3 Q. Okay. And you said yes, right?

4 A. Yes, ma'am.

5 Q. And the judge said "is that the truth," and you said
6 "yes", correct?

7 A. Yes, ma'am.

8 Q. You agreed with the facts that the solicitor presented
9 to the judge that day?

10 A. Yes, ma'am. Yes, ma'am.

11 Q. Okay. Thank you.

12 And the judge went through all of your Constitutional
13 Rights with you, including your right to a jury trial, your
14 right to confront your accusers, as well as your right to
15 remain silent, correct?

16 A. Yes, ma'am.

17 Q. Okay. And he asked you if you had been threatened or
18 coerced to plead guilty that day, correct?

19 A. Yes, ma'am.

20 Q. Okay. And he asked you if anyone has promised you
21 anything to plead guilty that day, correct?

22 A. Yes, ma'am.

23 Q. Okay. And he also asked you if you needed any
24 additional time? Do you remember that?

25 A. Do I need any more time?

1 Q. He asked you if you felt that you -- he said -- he
2 asked if you felt if you needed any additional time to
3 prepare a defense?

4 A. Well, ma'am, let me --

5 Q. Yes or --

6 A. Let me say this. My back was up against the wall and
7 Mr. James Cheek had me scared, and Ms. Mary Dassel, and I
8 went on and pleaded guilty to it.

9 Q. Okay.

10 A. I was misrepresented by Mr. James Cheek and Mary
11 Dassel.

12 Q. Mr. Moore, you were afraid because you were facing five
13 counts of shoplifting and you knew that you could be
14 sentenced up to sixty years?

15 A. No, ma'am, it wasn't that. It wasn't that.

16 Q. Okay.

17 A. No, ma'am.

18 Q. Okay. Did you not testify a few minutes ago that it
19 was your decision to plead guilty?

20 A. With them -- yes, ma'am, I did.

21 Q. Okay. But you never told the judge anything about
22 feeling threatened or coerced to plead guilty that day?

23 A. No, ma'am, I didn't tell him that day.

24 Q. And, in fact, you said it was your intent to plead
25 guilty that week?

1 A. No, ma'am, I wasn't intending to plead guilty that
2 week.

3 Q. That's not what you testified to --

4 A. Well --

5 Q. -- on direct?

6 A. Not in front of Judge Couch I wasn't.

7 Q. Okay.

8 A. But another judge. I don't know his name, but --

9 Q. You don't remember which judge that was?

10 A. Well, he was the first judge that I was put it on the
11 docket to go forward with.

12 Q. And regarding -- you testified about -- you said Mr.
13 Cheek misrepresented your previous charges? You -- he said
14 you have twelve prior shopliftings and twenty-two other
15 property crimes?

16 A. Did he?

17 Q. That was -- that was in -- that's in the transcript.
18 That's incorrect?

19 A. If he -- it's correct if it's in the transcript, ma'am.

20 Q. And you had an opportunity to speak to the judge, did
21 you not?

22 A. Yes, ma'am. I -- I almost stood up and cried to the
23 judge trying to -- asking him to have mercy on me because of
24 the way I had been represented by Mr. James Cheek.

25 Q. But you didn't say anything about your lawyers?

1 A. No, ma'am, I didn't. I didn't.

2 Q. Okay. And you didn't say anything about your prior
3 record being incorrect?

4 A. No, ma'am. They know, you know, about my prior record,
5 but Mr. Cheek, he added more onto it, like I was a mad -- I
6 don't know. I didn't do no five years, never have, for
7 shoplifting.

8 Q. Okay. And you said that if you didn't plead guilty,
9 your attorney said that you would have to go to a jury
10 trial?

11 A. That's what they told me when they came over to the
12 annex -- I mean to the jailhouse, said they were going to
13 take me -- had -- go take me to a jury trial if I didn't go
14 on with the -- plead guilty.

15 Q. Okay. But you knew that you either had to plead guilty
16 or go to a jury trial?

17 A. Yes, ma'am, I knew, but I -- I -- I didn't know that I
18 would have to do -- get as much a time as I did, when I
19 could have gotten lesser time.

20 Q. Okay. And you testified that you wanted to hire
21 Michael Brown to represent you?

22 A. Yes, ma'am.

23 Q. Okay. But -- and, again, you never said anything to
24 the judge about that at your guilty plea, correct? You
25 never told the judge that you wanted to hire a different

1 attorney?

2 A. No, ma'am, I -- no, ma'am.

3 Q. Okay. And Mr. Brown is not here today, correct?

4 A. As far as I know. I don't see him in the courtroom,
5 ma'am.

6 Q. And we don't really have any idea of knowing if he
7 would have actually been able to get you probation, right?

8 A. Well, that's what he said, but I have a witness in the
9 courtroom here, my own -- my brother, he -- he is the one,
10 and my other brother is the ones going to hire Michael
11 Brown -- was going to hire Michael Brown.

12 Q. So, again, we really have no way of knowing how that
13 would have turned out?

14 A. No. No, ma'am, we don't.

15 Q. And ultimately it was your decision to plead guilty,
16 correct?

17 A. Not disrespectful, ma'am, I was forced to plead guilty.
18 I feel that I was forced to plead guilty, so I did plead
19 guilty. I didn't know that it would go the way it did.

20 Q. And that meaning --

21 MS. OLIVE: That's all questions that I have.
22 Thank you.

23 THE COURT: Mr. Rucker?

24 MR. RUCKER: Nothing further, Your Honor.

25 THE COURT: Okay, sir, you may step down. Please

1 by careful.

2 MR. RUCKER: I need to briefly confer with my
3 client before we proceed.

4 (Off the record)

5 (Back on the record)

6 MR. RUCKER: No further witnesses, Your Honor.

7 THE COURT: Okay.

8 Yes, ma'am.

9 MS. OLIVE: Your Honor, we would call James Cheek
10 to the stand.

11 THE COURT: Mr. Cheek, come forward, please.

12 JAMES A. CHEEK, ESQUIRE, having been first duly
13 sworn, testified as follows:

14 THE COURT: Thank you. Please be seated.

15 Mr. Cheek, tell us your full name, please.

16 THE WITNESS: James Arthur Cheek.

17 THE COURT: All right.

18 Yes, ma'am.

19 MS. OLIVE: Thank you, Your Honor.

20 DIRECT EXAMINATION BY MS. OLIVE:

21 Q. Mr. Cheek, did you represent Mr. Moore from the
22 beginning?

23 A. Let me explain my position in all this, if would it
24 help.

25 Q. Yes.

1 A. When clients are accepted for representation by the
2 Public Defender's Office here in the Seventh Judicial
3 Circuit they are assigned an attorney on staff who would
4 have the responsibility for following through all the way to
5 trial in the representation of their client. In the interim
6 my position is to work with the solicitor's office, the
7 trial attorney, as well as the client in any effort to try
8 to resolve cases short of trial.

9 In this particular case Mr. Charles Edward Moore had
10 been made an offer in the case for a plea. He had worked
11 with his attorney Mary Francis Dassel in preparation for a
12 plea. Near time for the plea he backed out and decided he
13 wanted to go to trial.

14 In preparation for the trial Ms. Mary Francis Dassel,
15 his trial attorney, asked me to sit in, because I'm quite
16 honestly at the jail, she asked me to sit in as she went
17 over all of the discovery in the case. She requested that I
18 likewise go over all the discovery prior to the conference
19 so that as we had the conference, we both would be on the
20 same page, as far as knowing as much as we possible could
21 about the discovery in the case, as well as the evidence and
22 testimony that would be offered at trial against this
23 client. I routinely do this because it requires that
24 someone will sit in. We do that for two reasons. One is to
25 make certain that we have covered as much as possible all of

1 the information in the case.

2 Secondary to that we also want to be certain that in
3 the event there is some question about whether or not
4 information has been shared with the client regarding both a
5 plea offer, as well as the discovery, as well as the
6 client's understanding and the client's demeanor during that
7 conference, should that become necessary in the future, we
8 have at least one witness to support the trial attorney, and
9 that is what happened with Mr. Charles Moore's case.

10 Q. So you did -- and I believe you just testified that you
11 did review the discovery and you did review -- excuse me,
12 you did review the discovery with Mr. Moore?

13 A. I did. The only thing I did not view was the video.
14 We did not have the video at the jail that day. However,
15 all of the incident reports, all of the statements from all
16 loss prevention officers and police officers involved in the
17 case I did review prior to the conference with Mr. Moore
18 that day.

19 Q. Would you have been the one to advise him regarding
20 his -- regarding whether or not -- excuse me.

21 Would you have been the one to advise him regarding the
22 sufficiency of the State's evidence?

23 A. I gave him opinion on that sitting in with Ms. Dassel.
24 She took the role of describing to him what she thought the
25 sufficiency was. I underscored all that and went case by

1 case reviewing the matter with Mr. Moore, understanding that
2 at some point in time he would have been up for trial on all
3 these charges and we better look at all in a global sense as
4 opposed to taking one by one, but as far as the first trial
5 coming up, he and Ms. Dassel had already gone over all of
6 that, so he knew he was coming up for trial. That trial was
7 imminent in his case.

8 Q. So did you and Ms. Dassel, in effect, work together in
9 representing him, or is there at some point that you took
10 over?

11 A. Ms. Dassel asked if I would move forward with the
12 actual plea that day to free her to take care of some other
13 matters that she had the same day.

14 Q. Is there any reason you would have felt that you
15 weren't prepared to handle that plea?

16 A. No.

17 Q. Mr. Cheek, did you discuss with Mr. Moore his
18 Constitutional Rights?

19 A. I discussed with him his Constitutional Rights. We
20 talked about any defenses he may have in the case.

21 We also talked about his position, as far as his
22 criminal history is concerned. I reviewed that with him. I
23 pointed out to him the number of convictions that he had.

24 I did tell him that I thought that he had made,
25 probably not the best judgment call by not going forward

1 with the plea earlier in front of a different judge. I
2 explained to him that not only was he taking an awful
3 precarious position in the case by going before the judge
4 with a trial, that he had probably just waited out his last
5 opportunity to get in front of a more lenient judge for
6 these particular kind of crimes, which is why at the plea I
7 took the lead in putting on the record my client's criminal
8 history, because I did not want to be standing in the
9 courtroom with the usual protocol that the solicitor's
10 office does. They generally call out the date or year of
11 the conviction and the number of convictions and they do it
12 year by year by year by year, conviction by conviction by
13 conviction. And generally why that is happening, Judge
14 Couch takes the position, he counts the number of
15 convictions and the number of years, as well as scan of the
16 number of years. In order to avoid that in this particular
17 case and to go immediately to the point of trying to ask for
18 mercy and leniency and something in mitigation regarding my
19 client, I put his record in a very summary fashion before
20 the court so he would not have to be standing there while
21 the judge heard everything outlined chronologically on the
22 record.

23 Q. And you felt that would work to your client's favor?

24 A. Yes. I also anticipated the judge would probably ask
25 what's the greatest sentence of time you have ever served in

1 the Department of Corrections on a crime, because the judge
2 had already made some illusions to what the purpose of the
3 Department of Corrections is and how it factors into the
4 character building and character changing, vision changing,
5 attitude changing among persons who are potentially facing
6 criminal charges. So I also took the mitigating stance that
7 I would go ahead and put on the record what the longest
8 period of time my client had served in the Department of
9 Corrections, hoping to direct the judge's attention to
10 something around that length of time, as opposed to the
11 greater length of time my client was facing with something
12 in the excess of sixty years in the Department of
13 Corrections on these charges.

14 Q. And you testified a few minutes ago that there was a
15 prior plea offer, but that Mr. Moore backed out of that
16 initial plea?

17 A. Yes, he decided he wanted to go to trial.

18 Ms. Dassel came to me because she was actually in trial
19 preparation mode, our last opportunity to actually prepare
20 for trial on that particular charge and to see if the State
21 would still accept a plea offer for all the charges in hopes
22 they would run it concurrent.

23 Q. Do you feel that Mr. Moore would have been convicted if
24 he had gone to trial?

25 A. I feel that Mr. Moore, based upon the conversations we

1 had, surely understood that there was a substantial
2 likelihood that a jury would find him guilty.

3 He also was counseled regarding any credibility issues
4 he would have at trial, given his significant criminal
5 history on charges like this.

6 Q. And typically when a person pleads guilty, are they
7 giving up certain Constitutional Rights and defenses they
8 might have?

9 A. Not typically. Absolutely.

10 They give up the right to remain silent, because they
11 have to talk with the judge.

12 They give up their right to confront the State's
13 witnesses against them because they are giving up a trial.

14 They give up the right to require the State to prove
15 them guilty beyond a reasonable doubt of all the allegations
16 and charges against them they would be facing at trial.

17 They give up the right to put up a defense at trial.

18 Q. And, again, you went over all those things with Mr.
19 Moore?

20 A. I did, both at the jail, as well as here at the
21 adjoining holding room, as well as the judge did in
22 accepting the plea.

23 Q. Was it ultimately Mr. Moore's -- whose decision was it
24 ultimately for Mr. Moore to plead guilty?

25 A. Not only Mr. Moore's case, but in any defendant's case

1 it is that defendant's decision to plead guilty.

2 Ms. Dassel would have been very glad to try the case.

3 And for me it doesn't matter on the other, because I
4 don't try the cases. Ms. Dassel and the assigned plea
5 attorney would have been the one that would try the cases,
6 so my role would have been the same regardless.

7 Q. Thank you, Mr. Cheek. That's all the questions that I
8 have.

9 A. Thank you.

10 MR. RUCKER: May it please the court?

11 CROSS EXAMINATION BY MR. RUCKER:

12 Q. Mr. Cheek, who was the previous traveling judge, do you
13 recall?

14 A. I have no earthly idea what he's talking about.

15 Q. Okay. Was it -- the previous plea week, though, that
16 he was supposed to take the plea who was the judge that
17 week?

18 A. I have no earthly -- I have no idea.

19 Q. Could it have been Judge Kelly, to your knowledge?

20 A. I have no idea.

21 Q. Were you actually involved at that point in the case at
22 all?

23 A. I was not.

24 Q. Okay. Did you advise my client that those previous
25 shopliftings could be used against him in front of the jury?

1 A. No.

2 Q. Did you advise him that -- earlier you testified that
3 his previous crimes could be used in some way, is that
4 right?

5 A. Credibility.

6 Q. Okay. That would go -- that would be used to impeach
7 him?

8 A. I think so.

9 Q. Do you believe that shopliftings under 404 analysis
10 could be used to impeach him?

11 A. Yes.

12 Q. And what is that -- what case law is that based on or
13 what legal knowledge is that based on?

14 A. I relied upon the conversation he had with Ms. Dassel
15 regarding his criminal history and for fear of anything that
16 might come out that he previously been convicted of could
17 probably used against him at trial.

18 Q. Did you believe that affected his decision to plead
19 guilty at that point?

20 A. No.

21 Q. Why did you tell him that then?

22 A. I told him if he's going to go to trial, the chances of
23 his previous criminal history would be brought into play
24 under cross-examination.

25 Q. But that would affect his ability to decide whether he

1 wanted to go to trial or not. I mean, that's the whole
2 point of bringing that up, right?

3 A. No, I do it routinely. I tell them all the same thing,
4 your prior criminal history could stand to be brought in
5 trial if you decided to plead guilty at trial. So I don't
6 know what one thing he would have been concerned about,
7 because that was done the day of the plea. He had already
8 made a decision to enter the plea prior to that day when I
9 had my conversation with him.

10 Q. Well, the previous attorney, Ms. Dassel, actually told
11 him that as well, didn't she?

12 A. I was not present for that.

13 Q. Okay. He obviously had a right not to testify in these
14 cases, correct?

15 A. Absolutely.

16 Q. Is it your belief that those prior convictions could
17 have been used against him if he did not testify?

18 A. No.

19 Q. And I am just -- let's be clear on this. If you are
20 wrong about the law and you advised him that the
21 shopliftings could be used against him in impeachment, but
22 they couldn't, or would have been excluded by the judge,
23 would that have -- is that erroneous advice to him?

24 A. I didn't do that.

25 Q. Okay. And something --

1 A. I'm not going to tell them something that's not
2 relevant to what I'm talking about.

3 Q. Yes, sir, but you advised him that those previous --

4 A. I advised him that his prior criminal history could be
5 used against him at trial. I never said specifically the
6 shopliftings.

7 Q. Did you tell him about impeachment, or you just said it
8 was going to be used against him at trial?

9 A. I told him that at trial there is always a chance your
10 prior criminal history could be used against you, if you
11 testify. That's the same colloquy I go through with
12 everybody.

13 Q. All right. How often did you meet with my client
14 before this guilty plea?

15 A. I met with him with Ms. Dassel present. I met with him
16 one time prior at the jail and one time the day of the plea.

17 Q. And your testimony previously was that you went over
18 all the discovery but the videotape or videotapes?

19 A. I did not see the videotapes.

20 Q. Okay. So you don't know if that would affect his
21 decision to plea or not?

22 A. (No response).

23 Q. I mean, you don't know how --

24 A. Repeat the question.

25 Q. I'm sorry, you don't know how helpful to the

1 prosecution those videotapes were, or that videotape was?

2 A. I know he talked about the tape during the conversation
3 with Ms. Dassel and I had with him. He was fully aware that
4 there would be testimony by loss prevention that he went
5 into the stores, that he either concealed or attempted to
6 conceal items.

7 There would have been testimony that in one of the
8 incidents at T.J. Max that he actually had gathered a number
9 of items in a bag and he had threw them at the loss
10 prevention officer when the officer approached him.

11 There would have been testimony that at one time he was
12 approached at Family Dollar Store, I believe, and that he
13 had stolen items on his person from Dollar General Store in
14 Family Dollar.

15 It got very, very convoluted, but it was very clear
16 that the allegations against him would have been that he
17 entered mercantile establishments and that he either
18 concealed or he took items in an effort to leave the store,
19 and in some of the instances left the stores with those
20 items with the intent to permanently deprive the merchant of
21 those valued items.

22 Q. Did those merchants use loss prevention officers to
23 search him?

24 A. Which one?

25 Q. Well, the ones where he left the stores. How was he

1 searched at that point, by police officers or by loss
2 prevention?

3 A. Once he left the stores?

4 Q. Right.

5 A. I don't understand your question.

6 Q. How did they find those items on him later?

7 A. They later did surveillance and the surveillance would
8 have placed him with those items and leaving the stores on
9 one or two of them.

10 Others, he was taken into custody by loss prevention
11 and an officer was called there to the scene to verify that
12 he had the items on him.

13 Q. Did he give statements to the loss prevention officers?

14 A. I don't recall.

15 Q. Did you give statements to the police?

16 A. I don't recall.

17 Q. Do you know what the previous plea offer was before the
18 previous judge?

19 A. No.

20 Q. So you don't know if it was less than or more than what
21 he ended up getting?

22 A. I don't know.

23 Q. How many trials -- how many cases that he was in were
24 scheduled for trial the week he pled in front of Judge
25 Couch?

1 A. Only one, I believe.

2 Q. Was it going to get reached that week, to your belief?

3 A. I'm not clairvoyant.

4 Q. Well, certainly, but in your experience was it high
5 enough on the list that it had a chance of getting reached?

6 A. I don't try the cases.

7 Q. Did Ms. Dassel say she thought it was going to get
8 reached?

9 A. You would have to ask her.

10 Q. Why did Ms. Dassel not put this plea up when she was
11 present in the courtroom?

12 A. Because she and I had together talked with Mr. Moore
13 and I don't know why she did not put the plea up, but I did.

14 After having had discussions with Mr. Moore, Mr. Moore
15 expressed no concern whatsoever to me or to Ms. Dassel about
16 me moving forward into the plea. That's my job.

17 Q. I'm simply asking if Ms. Dassel was present? Do y'all
18 have a policy that you are the one that puts the pleas up,
19 even if the previous attorney is present?

20 A. That rarely happens.

21 Q. But in this case it did happen?

22 A. We don't have a policy to that effect.

23 Q. I'm sorry, I didn't understand.

24 A. We don't have a policy or a practice to that effect.

25 Q. She just wanted you to put it up so she was free to

1 leave?

2 A. I cannot tell you what she wanted, when she wanted, how
3 she wanted. I'm telling you what happened.

4 Q. Did she --

5 A. Mr. Moore and I talked that morning downstairs. We
6 talked again next door. He and I talked in preparation for
7 entering the plea.

8 He called Ms. Dassel over to himself while he was
9 sitting in the jury box waiting to go forward with the plea.
10 What that conversation was I do not know. Mr. Moore did not
11 express that to me, neither did Ms. Dassel, and I cannot say
12 what that conversation was.

13 Q. Yes, sir, but did Ms. Dassel ask you to put the plea
14 up?

15 A. Mr. Moore asked me to put the plea up.

16 Q. So he chose you over Ms. Dassel is your testimony?

17 A. I don't know what he did. All I know is after he had
18 the conversation --

19 I was the one who was here at seven o'clock that
20 morning, who talked to Mr. Moore. I was the one who talked
21 to him in the anteroom and I was the one who came in the
22 courtroom prepared to enter the plea. I had him sign the
23 sentencing sheets.

24 Mr. Moore took it upon himself to call Ms. Dassel over.
25 I didn't involve myself in any of that. I had no idea what

1 his conversation was. He didn't make me privy to what that
2 conversation was and neither did Ms. Dassel.

3 Q. Did you, in fact, inform Judge Couch that he had served
4 five years on his shoplifting charge?

5 A. I don't see it in the transcript.

6 Q. You don't recall saying that?

7 A. I don't see it. If you would show it to me, I
8 appreciate it.

9 Q. I understand what the transcript may or may not say.
10 I'm saying was it your belief he had done five years on a
11 shoplifting?

12 A. Is that reflected in the transcript?

13 Q. I'm asking if you recall it independently of the
14 transcript?

15 A. I'm asking you to point it out to me in the transcript
16 where I said that on the record.

17 Q. Your Honor -- I mean Mr. Cheek, I'm not trying to be
18 sarcastic.

19 A. And neither am I.

20 Q. I'm just asking you --

21 A. I'm telling you if it's not in this transcript --

22 I don't appreciate people saying I said something I did
23 not say, and Mr. Moore has testified to something that I
24 cannot find in the transcript. I see one reference to a
25 four year previous time in the Department of Corrections,

1 and I see a three year. I don't see five years in that at
2 all. If I'm mistaken, I would appreciate being able to
3 address it line and page of this official transcript.

4 Q. And I understand. I'm not trying to aggravate you.

5 Do you have any independent recollection of telling the
6 judge that he did five years on a shoplifting?

7 A. No.

8 Q. All right. When -- what was the -- you don't believe
9 he did a five year term in the Department of Corrections at
10 any point?

11 A. I have answered the question.

12 Q. Was that a 1998 burglary that he may have done five
13 years for?

14 A. I don't know.

15 Q. Is his full record laid out in the transcript?

16 A. No.

17 Q. I believe your testimony was you tried to preclude the
18 State from listing out chronologically all the time that he
19 had done, is that right?

20 A. Yes.

21 Q. So the judge was depending on your testimony, as far as
22 his prior record, and the solicitor's office did not clear
23 it up?

24 A. Did not clear it up?

25 Q. That's a compound questions. That's unfair.

1 You tried to tell the judge what his prior record was
2 so that the solicitor's office would not?

3 A. Would not go into greater detail.

4 Q. And did the solicitor's office then correct what you
5 said or list out what the charges were or previous
6 convictions were?

7 A. My recollection, they just told the court that they
8 believed that I was substantially correct in my --

9 Q. And there is no disagreement with the transcript on
10 that?

11 A. No.

12 Q. Okay.

13 MR. RUCKER: No further questions.

14 THE COURT: Anything further?

15 MR. RUCKER: No, sir.

16 THE COURT: Ms. Olive?

17 MS. OLIVE: Just briefly, Your Honor.

18 REDIRECT EXAMINATION BY MS. OLIVE:

19 Q. Mr. Cheek, do you feel that had that been brought to
20 the judge's attention, it would have been helpful to Mr.
21 Moore?

22 A. That he served five years as opposed to four or three
23 years?

24 Q. Correct.

25 A. I think that would have been detrimental to Mr. Moore.

1 Q. Thank you.

2 MS. OLIVE: No further questions.

3 THE COURT: All right. Mr. Cheek, you may step
4 down. Please be careful.

5 Anything further from the government?

6 MS. OLIVE: Just ask that Mr. Cheek be excused.

7 MR. RUCKER: No objection.

8 THE COURT: All right. Without objection, Mr.
9 Cheek, you are excused.

10 MS. OLIVE: And that's all from the State, Your
11 Honor.

12 THE COURT: Anything?

13 MR. RUCKER: No, sir.

14 THE COURT: All right. It's under advisement.
15 Lady and gentleman, watch your e-mail.

16 Sir, we do everything by e-mail here. My law
17 clerk is sitting right here to my right. She and I will
18 discuss this. I'll make a ruling on that and I will send it
19 to your lawyer and this government's lawyer at the same
20 time. I won't. She will. I really can't do all that. Do
21 you understand? She is smarter than me. She will send it
22 to your lawyer over the e-mail, okay?

23 THE APPLICANT: Yes.

24 THE COURT: That concludes this hearing.

25 (END OF REQUESTED TRANSCRIPT OF RECORD)

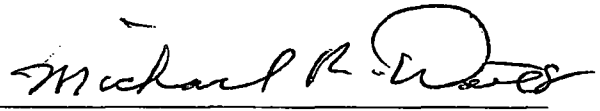
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CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Spartanburg County, South Carolina, on the 22nd day of March, 2016.

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

SEPTEMBER 19, 2016



Michael R. Watts
Circuit Court Reporter

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)	
Charles E. Moore, #244412,	)	Case No. 2015-CP-42-1447
)	
Applicant,)	
	)	ORDER OF DISMISSAL
v.)	
)	
State of South Carolina,)	
)	
Respondent.)	

CLERK OF COURT
 SPARTANBURG COUNTY
 2016 MAY -9 AM 9:11
 M. HOPE BRADNEY

This matter is before the Court by way of an application for post-conviction relief ("PCR") filed April 9, 2015. Respondent made its Return on December 18, 2015, requesting an evidentiary hearing be held. An evidentiary hearing into the matter was convened at the Spartanburg County Courthouse before the undersigned on March 22, 2016. Applicant was present at the hearing and was represented by J. Brandt Rucker, Esquire. Alicia A. Olive, Esquire, represented Respondent.

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from James A. Check, Esquire. This Court also had before it the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the pleadings.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Spartanburg County. Applicant was indicted at the December 2013 term of Spartanburg County Grand Jury for resisting arrest (2013-GS-42-5607), and shoplifting, third or subsequent (2013-GS-42-5608). Applicant was subsequently indicted in June 2014 for five counts of shoplifting, third or subsequent offense (2014-GS-42-

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1203, -2654, -2655, -2656, and -2657). Applicant waived presentment to the grand jury on attempt to furnish contraband to a prisoner (2014-GS-42-3946). James Cheek, Esquire ("Counsel"), represented Applicant. On August 27, 2014, Applicant pleaded guilty as indicted before the Honorable Roger L. Couch. Judge Couch sentenced Applicant to imprisonment for concurrent terms of ten years on each count of shoplifting and a consecutive term of three years imprisonment for attempt to furnish contraband to a prisoner. Judge Couch also sentenced Applicant to a concurrent term of one year for the resisting arrest charge. Applicant did not appeal his plea or sentence.

Allegations

Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance Counsel, in that:
 - a. "Counsel force[d] me to plea[d] to this sentence, and I was mis[led] by my counsel."
 - b. [Counsel] sa[id] if I didn't plea[d] that he would take [me] to trial."

II. SUMMARY OF TESTIMONY PRESENTED

Applicant testified that he was initially represented by Mary Frances Dassell, Esquire, but that Counsel represented him at the guilty plea. Applicant testified that he wished to retain another attorney, Michael Brown, Esquire, to represent him, but admitted that he did not inform the plea judge of this because he did not think the judge would believe him. Applicant testified that Dassell reviewed discovery with him for fifteen to twenty minutes and they reviewed the surveillance video from T.J. Maxx. Applicant testified he met with Counsel twice before the plea, and that Dassell was present in the meetings. Applicant testified he wanted to plead in front of a "travelling" judge. Applicant testified that Counsel spoke "against" him at the plea hearing and misadvised the plea judge about his criminal history.

Counsel testified that Applicant backed out of his initial plea. Counsel testified he had no idea what Applicant was talking about concerning trying to plead in front of a travelling judge. Counsel testified he always advises his clients that their criminal records may be used against them at trial. Counsel testified he met with Applicant about three times, that they went over all discovery together except for a surveillance video. However, Counsel stated that the video was not the only evidence against him, but rather, Applicant had been caught with stolen items on his person, and he had made statements to loss prevention officers. Counsel testified he did not know why Dassell did not handle Applicant's plea, but that Applicant expressed no concern over Counsel representing him at the plea. Counsel further stated that Applicant asked him to handle the plea. Counsel testified that he took the lead in providing Applicant's criminal history because typically the solicitors provide the history year by year and the plea judge will add them up. Since Applicant had 12 prior shoplifting and 22 other property crimes on his record, Counsel thought it would work in Applicant's favor to provide them the way he did. Counsel testified that the plea judge also wants to know the most amount of time an individual has served in the Department of Corrections, so he took a mitigating stance and informed the plea judge that Applicant had previously served four years on a prior shoplifting charge from 2012. Counsel testified he reviewed all of Applicant's constitutional rights with him more than once and each time explained he would be waiving them by pleading guilty. Counsel testified he felt there was a substantial likelihood that Applicant would be convicted if he went to trial, and that it was Applicant's decision to plead guilty.

III. 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, and closely pass upon their credibility. This Court has weighed their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

A. Ineffective Assistance of Counsel

In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). The applicant “must first demonstrate that counsel was deficient and then must also show the deficiency resulted in prejudice.” Walker v. State, 407 S.C. 400, 404-05, 756 S.E.2d 144, 146 (2014). “The two-part test adopted in Strickland also applies to challenges to guilty pleas based on ineffective assistance of counsel.” Holden v. State, 393 S.C. 565, 572, 713 S.E.2d 611, 615 (2011).

The applicant must first show that counsel’s performance “fell below an objective standard of 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). Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, he would not have [pleaded] guilty, but would have insisted on going to trial.” Thompson v. State, 340 S.C. 112, 116, 531 S.E.2d 294, 297 (2000).

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds Applicant has failed to meet his burden of proving either deficiency or prejudice. This Court finds that Applicant's attorneys demonstrated the normal degree of skill, knowledge, professional judgment, and representation that is expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977). Counsel relayed the correct statement of law to Applicant in advising him on entering a plea versus going to trial. This Court finds that Counsel adequately conferred with Applicant in preparation for his plea. During these conferences with Applicant, Counsel discussed the charges, the State's evidence, the potential penalties, Applicant's constitutional rights, Applicant's version of the facts, and possible defenses or lack thereof. The Court further finds the plea transcript dispositive in that Applicant agreed with the facts presented by the assistant solicitor at the plea hearing, did not request additional time to speak with his attorney, and did not inform the plea judge that he wished to relieve his attorneys and retain another attorney. Applicant testified that he had an opportunity to speak with the plea judge during the plea but did not advise him that he believed his prior record as stated was incorrect. Additionally, Applicant was not entitled to select which judge he would plead in front of. Therefore, this Court finds that Applicant has failed to show that Counsel's performance fell below an objective standard of reasonableness. This Court further finds that Applicant has failed to show that but for any alleged deficiency, he would have not have pleaded guilty but would have insisted on going to trial. Accordingly, this allegation is denied and dismissed.

B. Involuntary Guilty Plea

Applicant alleges he was coerced to plead guilty and that therefore his plea was involuntary. This Court finds Applicant's guilty 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).

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) (citing Hill v. Lockhart, 474 U.S. 52; Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000); Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000); Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994)).

This Court finds that the record fully supports the knowing and voluntary nature of Applicant's guilty plea. Applicant has presented no reason why he should be allowed to depart from the truth of his statements made at the plea hearing. At his plea, Applicant intended to plead

guilty, did not wish to proceed with a trial, and was removed from the trial docket that week. Applicant testified, and the record reflects, that he did not advise the plea judge that he felt threatened, coerced, or forced to plead guilty. Counsel informed Applicant of his constitutional rights, and Applicant waived these rights, including the right to a jury trial, right to remain silent, and right to confront witnesses. Applicant has failed to show that Counsel's performance was deficient or that any alleged deficient performance prejudiced him. Accordingly, this Court hereby denies and dismisses Applicant's allegation that his guilty plea was involuntary.

C. All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

IV. CONCLUSION

Based on the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, his application 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), SCRCR, 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

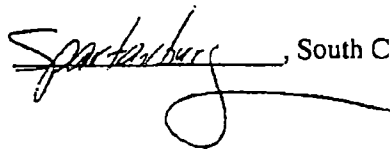
behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 9th day of May, 2016.


 R. KEITH KELLY
 Presiding Judge
 Seventh Judicial Circuit

, South Carolina

CLERK OF COURT
 SPARTANBURG COUNTY
 2016 MAY -9 AM 9:11
 M. HOPE BLACKLEY

WITNESSES

SPTBG. CO. SHERIFF'S OFFICE

1. SENTENCES SERVED

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED

6. CHECKED BY

7. ASSESSED AND

FINE COLLECTED

8. ARREST WARRANT NUMBER

2013A4210203361

ACTION OF GRAND JURY

True Bill

MAR 28 2014

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

14-GS-42-1203

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 31 2014

TERM

THE STATE

vs.

CHARLES EDWARD MOORE

Indictment for

SHOPLIFTING

SC Code: 16-13-110(A), 16-1-57

CDR Code: 2877

Class FEL/E

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 APR -2 PM 3:19
M. HOPE BLACKLEY

CF

WITNESSES

SPTBG. PUBLIC SAFETY DEPARTMENT

L. SPARTANBURG COUNTY

Ronna M. Jonesta

ARREST WARRANT NUMBER

2014A4210100302

ACTION OF GRAND JURY

Joseph M. B...
Foreperson of Grand Jury
Date: JUN 12 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. -

14-GS-42-2654

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 16 2014

TERM

THE STATE

vs.

CHARLES EDWARD MOORE

Indictment for

SHOPLIFTING

SC Code: 16-13-110(A), 16-1-57

CDR Code: 2877

Class FEL/E

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 JUN 17 AM 10:58
M. HOPE BLACKLEY

CONF

2014A4210100302

STATE OF SOUTH CAROLINA

County/ Municipality of

Spartanburg

JAIL

THE STATE 01021814

against

Charles Edward Moore

118510

Address:

Phone: SSI:

Sex: M Race: B Height: 5 4 Weight: 159

DL State: SC DL #:

DOB: Agency ORI #: SC0420100

Prosecuting Agency: Spartanburg Police Department

Prosecuting Officer: Jennifer E Watson - 1665

Offense: Shoplifting / Value \$2000 or less (Enhancement per 16-01-0057)

Offense Code: 2877.

Code/Ordinance Sec: 16-13-0110(A)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions 180 Magnolia Street P O Box 3483 Spartanburg, SC 29304 BY: JAN 27 2014

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

County/ Municipality of Spartanburg

AFFIDAVIT

Personally appeared before me the affiant Jennifer E Watson who

being duly sworn deposes and says that defendant Charles Edward Moore did within this county and state on or about 1/10/2014 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Spartanburg) in the following particulars:

DESCRIPTION OF OFFENSE: Shoplifting / Value \$2000 or less (Enhancement per 16-01-0057)

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

That on January 10, 2014 in the city of Spartanburg, one Charles Edward Moore did take possession of and/or carry away clothing merchandise valued at \$2,000 or less, merchandise of TJ Maxx located at 120 Dorman Centre Dr Spartanburg, SC with the intention of depriving the merchant of the possession of such merchandise without paying the full retail value. The defendant has at least two prior convictions for this offense.

This is the third and subsequent offense and section 16-1-57 applies, because the defendant has two or more property crime convictions based on value.

Warrant based upon police investigation. CTC

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Spartanburg

Affiant's Address 145 West Broad Street Spartanburg, SC 29306-

Affiant's Telephone

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 1/10/2014 defendant Charles Edward Moore

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

County/ Municipality of Spartanburg) as set forth below:

DESCRIPTION OF OFFENSE: Shoplifting / Value \$2000 or less (Enhancement per 16-01-0057)

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

on 1/23/2014

Signature of Issuing Judge (L.S.)

James Buckingham Paslay

Judge Code: 5483

Judge's Address Spartanburg County Judicial Center

Spartanburg, SC 29306-2335

Judge's Telephone (864)596-2564

Issuing Court: Magistrate Municipal Circuit

2014 JAN 23 PM 2:30

Handwritten notes and signatures on the right side of the page.

103

WITNESSES

SPTBG. PUBLIC SAFETY DEPARTMENT

Ranna M. Tomate

ARREST WARRANT NUMBER

2014A4210100303

ACTION OF GRAND JURY

True Bill

Joseph M. Bayn
Foreperson of Grand Jury
Date: JUN 12 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

14-GS-42-2655

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 16 2014

TERM

THE STATE

vs.

CHARLES EDWARD MOORE

Indictment for

SHOPLIFTING

SC Code: 16-13-110(A), 16-1-57

CDR Code: 2877

Class FEL/E

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 JUN 17 AM 10:58
M. HOPE BLACKLEY

AS

WITNESSES

SPTBG. PUBLIC SAFETY DEPARTMENT

Rennie M. Jomata

ARREST WARRANT NUMBER

2014A4210200552

ACTION OF GRAND JURY

True Bill

Joseph M. Bay
Foreperson of Grand Jury
Date: JUN 12 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. **14-GS-42-2654**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 16 2014

TERM

THE STATE

vs.

CHARLES EDWARD MOORE

Indictment for

SHOPLIFTING

SC Code: 16-13-110(A), 16-1-57

CDR Code: 2877

Class FELJE

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 JUN 17 AM 10:58
M. HOPE BLACKLEY

Presiding Judge
Judge Code: *2135*

Clerk of Court/ Deputy Clerk
D.H.

AS

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

JUN 12 2014

At a Court of General Sessions, convened on _____, the

Grand Jurors of Spartanburg County present upon their oath:

SHOPLIFTING

That Charles Edward Moore did in Spartanburg County on or about February 23, 2014, take possession of or carry away merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of the merchandise without paying the full retail value, being less than Two Thousand Dollars, to-wit: pants, underwear and T-shirts, offered for sale by Belk, in violation of §16-13-0110(A); §16-1-57, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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



ASSISTANT SOLICITOR

107

WITNESSES

SPTBG. CO. SHERIFF'S OFFICE

Kevin [Signature]

ARREST WARRANT NUMBER

2014A4210200111

ACTION OF GRAND JURY

True Bill

Joseph [Signature]
Foreperson of Grand Jury
Date: JUN 12 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

14-GS-42-2657

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 16 2014

TERM

THE STATE

vs.

CHARLES EDWARD MOORE

Indictment for

SHOPLIFTING

SC Code: 16-13-110(A), 16-1-57

CDR Code: 2877

Class FEL/E

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2014 JUN 17 AM 10:58

M. HOPE BLACKLEY

28

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JUN 12 2014, the

Grand Jurors of Spartanburg County present upon their oath:

SHOPLIFTING

That Charles Edward Moore did in Spartanburg County on or about January 12, 2014, take possession of or carry away merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of the merchandise without paying the full retail value, being less than Two Thousand Dollars, to-wit: underwear, slippers and sleepwear, offered for sale by Family Dollar, Spartanburg, South Carolina, in violation of §16-13-0110(A); §16-1-57, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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


 ASSISTANT SOLICITOR

WITNESSES

S.C. Department of Corrections

1. SENTENCE FILED

2. REPORT FILED

3. CARD FILED

4. INDEXED

5. CHECKED W/SPRINTS

6. CHECKED SIGNATURE

Admitted

ARREST WARRANT NUMBER

2014A4210200917

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. **1-GS-42** 3946

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 25 2014

TERM

THE STATE

vs.

CHARLES MOORE

Indictment for

ATTEMPT TO FURNISH
CONTRABAND TO A PRISONER

SC Code: 24-03-0950

CDR Code: 0074

Class FEL/E

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on AUG 21 2014 the

Grand Jurors of Spartanburg County present upon their oath:

ATTEMPT TO FURNISH CONTRABAND
TO STATE PRISONER

That Charles E. Moore did in Spartanburg County on or about March 18, 2014, unlawfully attempt to furnish a prisoner under the jurisdiction of the Department of Corrections with a quantity of contraband, to-wit: marijuana, said item having been declared contraband by the South Carolina Department of Corrections, in violation of §24-03-0950, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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



ASSISTANT SOLICITOR

ARREST WARRANT

2014A4210200817 3/18/14

STATE OF SOUTH CAROLINA

County/ Municipality of

Spartanburg

THE STATE

against

Charles Edward Moore

Address:

Phone: _____ SSN: _____
Sex: M Race: B Height: 5 4 Weight: 159

DL State: SC DL #: _____

DOB: _____ Agency ORI #: SCDOC0000

Prosecuting Agency: SC Department Of Corrections

Prosecuting Officer: Donald M Lane - 8205

Offense: Prisoners / Contraband, possession by prisoner, furnishing or attempt to furnish prisoner with

Offense Code: 0074

Code/Ordinance Sec: 24-03-0950

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

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

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant Charles E Moore on 3/18/14

[Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
180 Magnolia Street
P O Box 3483
Spartanburg, SC 29304

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Spartanburg

Personally appeared before me the affiant Donald M Lane who being duly sworn deposes and says that defendant Charles Edward Moore did within this county and state on or about 3/18/2014 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Spartanburg) in the following particulars:

DESCRIPTION OF OFFENSE: Prisoners / Contraband, possession by prisoner, furnishing or attempt to furnish prisoner with

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

That on March 18, 2014, in the county of Spartanburg, one Charles Edward Moore did furnish or attempt to furnish contraband to a prisoner at Tyger River Correctional Institution and/or possess contraband, Marijuana. The contraband is listed on a published and conspicuously located list of contraband items. Affiant's belief is based on police investigation. cmc

A CERTIFIED COPY

[Signature]
CLERK OF COURT

SPARTANBURG COUNTY

BY _____ D.C.

DATED 3/18/14

Signature of Affiant

[Signature]

STATE OF SOUTH CAROLINA

County/ Municipality of

Spartanburg

Affiant's Address 200 Prison Road
Enoree, SC 29335-

Affiant's Telephone _____

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 3/18/2014 defendant Charles Edward Moore

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

County/ Municipality of Spartanburg) as set forth below:

DESCRIPTION OF OFFENSE: Prisoners / Contraband, possession by prisoner, furnishing or attempt to furnish prisoner with

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

Sworn to and subscribed before me on 3/18/2014

[Signature]
Signature of Issuing Judge (L.S.)
Jama Freeman Ashmore
Judge's Code. 5740

Judge's Address Spartanburg County Judicial Center
Spartanburg, SC 29306-2335

Judge's Telephone (864)596-3424

Issuing Court Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

2014 MAR 20 AM 11:20
CLERK OF COURT

RR

WITNESSES

SPTBG. PUBLIC SAFETY DEPT.

Ronnie M. Jonester

ARREST WARRANT NUMBER

2013A4210201895

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

DEC 12 2013

VERDICT

Foreperson of Petit Jury
Date:

DOCKET # **13-GS-42-5607**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

DEC 16 2013

TERM

THE STATE
vs.

CHARLES EDWARD MOORE

Indictment for
RESISTING ARREST

SC Code: 16-9-320(A)
CDR Code: 326
Class MIS-C

FILED
CLERK OF COURT
SPARTANBURG CO. S.C.

2013 DEC 18 PM 1:41

M. HOPE BLACKLEY

ews

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

DEC 12 2013

At a Court of General Sessions, convened on _____, the
 Grand Jurors of Spartanburg County present upon their oath:

RESISTING ARREST

That Charles Edward Moore, did in Spartanburg County on or about June 1, 2013, unlawfully, knowingly and wilfully resist a law enforcement officer making a lawful arrest, to wit: Officer Sheryl Lopez, whom he knew or reasonably should have known was a law enforcement officer, in violation of §16-9-320 (B), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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



 ASSISTANT SOLICITOR

WITNESSES

SPTBG. PUBLIC SAFETY DEPT.

1. SENTENCE MADE

2. REPORT MADE

3. CHECKED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED UNPAID

7. ASSESSED

FILE CHARGE #

ARREST WARRANT NUMBER

TRAFFIC VIOLATIONS COPY

2013A4210201894

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: DEC 12 2013

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO

13-GS-42-5608

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

DEC 16 2013

TERM

THE STATE

vs.

CHARLES EDWARD MOORE

Indictment for

SHOPLIFTING

SC Code: 16-13-110(A), (B)(1)

CDR Code: 2877

Class FEL/E

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2013 DEC 18 PM 1:41

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on DEC 12 2013, the

Grand Jurors of Spartanburg County present upon their oath:

SHOPLIFTING

That Charles Edward Moore did in Spartanburg County on or about June 1, 2013, take possession of or carry away merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of the merchandise without paying the full retail value, being less than Two Thousand Dollars, to-wit: clothing, offered for sale by Old Navy, in violation of §16-13-0110(A),(B) (1); §16-1-57, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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


 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Charles Edward Moore

AKA:

Race: BLACK Sex: M Age: 53

DOB:

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Shoplifting 3rd or sub. offense 0-10 years

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS4201203

A/W#: 2013A4210203361

Date of Offense: 9/15/2013

S.C. Code § : 16-13-0110(A)

CDR Code #: 2877

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-13-0110(A), 16-1-57 of the S.C. Code of Laws, bearing CDR Code # 2877

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

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

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

ATTEST:

CUDE, DAN

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 Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 8/27/14
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. 035 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$390, TOTAL \$1339.

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2135

Sentence Date: 8/27/14

COUNTY OF SPARTANBURG
STATE VS. Charles Edward Moore

INDICTMENT/CASE#: 2014GS4202654
A/W#: 2014A4210100302
Date of Offense: 1/10/2014
S.C. Code § : 16-13-0110(A)
CDR Code #: 2877

AKA:
Race: BLACK Sex: M Age: 53
DOB:
Address:
City, State, Zip:
DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Shoplifting 3rd or sub. offense 0-10 years

CONVICTED OF or PLEADS

in violation of § 16-13-0110(A), 16-1-57 of the S.C. Code of Laws, bearing CDR Code # 2877
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

ATTEST: Daniel Cole 69337 CUDE, DAN Defendant
Attorney for Defendant SC Bar# 1207

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

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

CONCURRENT or CONSECUTIVE to sentence on: 8/27/14
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ 116.90 plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

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

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$590, TOTAL \$1330.

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

Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 2135
Sentence Date: 8/27/14

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

Charles Edward Moore

INDICTMENT/CASE#: 2014GS4202655

A/W#: 2014A4210100303

Date of Offense: 1/9/2014

S.C. Code § : 16-13-0110(A)

CDR Code #: 2877

AKA:

Race: BLACK Sex: M Age: 53

DOB:

Address:

City, State Zip

DL#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Shoplifting 3rd or sub. offense 0-10 years

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-13-110, 16-1-57 of the S.C. Code of Laws, bearing CDR Code # 2877

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.

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

ATTORNEY: Daniel Cole 69337 SC Bar# Defendant Charles Moore Attorney for Defendant SC Bar# 1207

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

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

CONCURRENT or CONSECUTIVE to sentence on: 8/27/14
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. 235 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$390, TOTAL \$13390.

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

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2135

Sentence Date: 8/27/14

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

INDICTMENT/CASE#: 2014GS4202656
A/W#: 2014A4210200552
Date of Offense: 2/23/2014
S.C. Code §: 16-13-0110(A)
CDR Code #: 2877

Charles Edward Moore

AKA:
Race: BLACK Sex: M Age: 53
DOB: [REDACTED]

Address:
City, State

DL#: [REDACTED] SID#: 11

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

In disposition of the said indictment comes now the Defendant who was TO: Shoplifting 3rd or sub. offense 0-10 years

SENTENCE SHEET

[] CONVICTED OF or [X] PLEADS

in violation of § 16-13-0110(A), 16-1-57 of the S.C. Code of Laws, bearing CDR Code # 2877
[X] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-45

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

ATTEST: [Signature] 69337 [Signature] Charles Moore [Signature] Attorney for Defendant [Signature] SC Bar#

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

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

[X] CONCURRENT or [] CONSECUTIVE to sentence on: 8/27/14
[] 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. 275 days
[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

Table with columns for description, amount, and total. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in instalments) \$390, TOTAL \$13390.

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

Clerk of Court/ Deputy Clerk
Court Reporter: [Signature]
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 2135
Sentence Date: 8/27/14

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS.

Charles Edward Moore

AKA:

Race: Sex: M Age: 53

DOB:

Address: S Center St

City, State: Spartanburg, SC

DL#: SID#: 293

*CDL Y N CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Shoplifting 3rd or sub. offense 0-10 years

INDICTMENT/CASE#: 2014GS4202657

A/W#: 2014A4210200111

Date of Offense: 1/12/2014

S.C. Code §: 16-13-0110(A)

CDR Code #: 2877

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-13-0110(A), 16-1-57 of the S.C. Code of Laws, bearing CDR Code # 2877

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.

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

ATTEST Daniel Cole 69337 Charles Moore Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

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

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

CONCURRENT or CONSECUTIVE to sentence on: 8/27/14
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. 235 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$390, TOTAL \$1330.

PTUP days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: P. Green

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2135

Sentence Date: 8/27/14

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
 STATE VS.)
 Charles Edward Moore)
 AKA:)
 Race: BLACK Sex: M Age: 53)
 DOB: [REDACTED])
 Address:)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 17-65-42-3944
 A/W#: 2014A4210200817
 Date of Offense: 3/18/2014
 S.C. Code § : 24-03-0950
 CDR Code #: 0074

SENTENCE SHEET

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
 TO: Attempt to furnish prisoner with contraband 1-10 years and/or 1,000 to 10,000 fine

CONVICTED OF or PLEADS

in violation of § 24-03-0950 of the S.C. Code of Laws, bearing CDR Code # 0074
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

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

ATTEST: [Signature] SC Bar# 7808 Charles Moore Defendant [Signature] Attorney for Defendant 1207 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 3 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 235 days

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

Set by SCDPPPS _____

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 (SCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)		\$ <u>3.00</u>
TOTAL		\$ <u>138.00</u>

PTUP _____

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk [Signature]
 Court Reporter: P Green
 SCCA/217 (03/2011)

Presiding Judge [Signature]
 Judge Code: 2135
 Sentence Date: 8/29/14

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Charles Edward Moore

AKA:

Race: BLACK Sex: M Age: 53

DOB:

Address:

City, State

DL#: SID#: 79816

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Resisting Arrest, Sec. A 0-1 year and/or 500-1,000

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS4205607

A/W#: 2013A4210201895

Date of Offense: 6/1/2013

S.C. Code § : 16-09-0320(A)

CDR Code #: 0326

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-09-0320(A) of the S.C. Code of Laws, bearing CDR Code # 0326

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

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

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

ATTEST: [Signatures] 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 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 Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 8/27/14 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: 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 %) \$

§ 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 (SCCJA Surcharge) \$5 \$ 5.00

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

TOTAL \$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2135

Sentence Date: 8/27/14

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
STATE VS.)
Charles Edward Moore)

IN THE COURT OF GENERAL SESSIONS

AKA: _____)
Race: BLACK Sex: M Age: 53)
DOB: _____)

INDICTMENT/CASE#: 2013GS4205608
A/W#: 2013A4210201894
Date of Offense: 6/1/2013
S.C. Code § : 16-13-0110(A)
CDR Code #: 2877

Address: _____)
City, State, Zip: _____)
DL#: _____)

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Shoplifting 3rd or sub. offense 0-10 years

CONVICTED OF or PLEADS

in violation of § 16-13-0110(A), 16-1-57 of the S.C. Code of Laws, bearing CDR Code # 2877
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
w/minor 1st or Lewd Act)

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

ATTEST: _____
CUDE, DAN 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 Services standard conditions of
probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 8/27/14
 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. 235 days
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

Recipient: _____

*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 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

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

Clerk of Court/ Deputy Clerk _____
Court Reporter: _____
SCCA/217 (03/2011)

Presiding Judge _____
Judge Code: 2135
Sentence Date: 8/27/14