

STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

The Honorable Letitia H. Verdin, Guilty Plea Judge
The Honorable Eugene C. Griffith, Jr., Post-Conviction Relief Judge

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JUL 31 2015

Appellate Case No. 2015-000756

S.C. Supreme Court

Brandon Garren, ... Respondent,

v.

State of South Carolina, ... Petitioner.

APPENDIX

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
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COUNTY OF PICKENS	)	TRANSCRIPT OF RECORD
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	Case No(s) : 2013GS3900240
	)	
Randall Gosnell,	)	
	)	
Defendant.	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	Case No(s) : 2012GS3900187
	)	
Anthony Foster,	)	
	)	
Defendant.	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	Case No(s) : 2012GS3900494,
	)	2012GS3900641
Jerry McMahan,	)	
	)	
Defendant.	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	Case No(s) : 2012GS3900567
	)	
Eric Brown,	)	
	)	
Defendant.	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	Case No(s) : 2012GS3900705,
	)	2013GS3900319
John Moore,	)	
	)	
Defendant.	)	

State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	Case No(s) : 2012GS3902766,
	)	2013GS3900311
Brandon Garren,	)	
	)	
<u>Defendant.</u>	)	

January 31, 2013
Pickens, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

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

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Teresa B. Johnson, CVR
Circuit Court Reporter

I N D E XDIRECT CROSS REDIRECT RECROSS

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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PLAINTIFF EXHIBITS

(No exhibits offered.)

DEFENSE EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 31st day of January, 2013 at approximately 2:43 p.m.)

THE CLERK: 2013-GS-39-240, the State versus Randall Gosnell, pleading to Assault and Battery second degree.

2012-GS-39-187, the State versus Anthony Foster, pleading to DUI first.

2012-GS-39-494, the State versus Jerry McMahan, pleading to Petty or Simple Larceny; 2012-GS-39-641, pleading to Receiving Stolen Goods.

2012-GS-39-2567, the State versus Eric Brown pleading to Petty or Simple Larceny.

2012-GS-39-705, the State versus John Moore pleading to Receiving Stolen Goods; 2013-GS-39-316, pleading to Failure to Stop for a Blue Light; 2013-GS-39-317, pleading to Receiving Stolen Goods; 2013-GS-39-318, pleading to Grand Larceny; 2013-GS-39-319, pleading to Possession of Methamphetamine.

2013-GS-39-311, the State versus Brandon Garren, pleading to Criminal Domestic Violence of a High and Aggravated Nature; 2012-GS-39-2677, pleading to Assault and Battery of High and Aggravated Nature.

1 Raise your right hands please.

2 (WHEREUPON, each defendant is first duly sworn.)

3 **THE COURT:** Mr. Gosnell, you are here today
4 to plead to Assault and Battery in the second
5 degree. It carries up to three years. Is that
6 your understanding?

7 **MR. GOSNELL:** Yes, ma'am.

8 **THE COURT:** All right. And Mr. Foster, you
9 are here today to plead to DUI first offense. That
10 carries 48 hours up to 30 days. Is that your
11 understanding?

12 **MR. FOSTER:** Yes, ma'am.

13 **THE COURT:** Mr. McMahan, you are here today
14 to plead to Petty Larceny that carries up to 10
15 years because it's a third or subsequent property
16 offense and Receiving Stolen Goods that also
17 carries up to 10 years. Is that your
18 understanding?

19 **MR. McMAHAN:** Yes, ma'am.

20 **THE COURT:** Mr. Brown, you are here today to
21 plead to Petty Larceny. That's a third or
22 subsequent property offense that carries up to 10
23 years. Is that your understanding?

24 **MR. BROWN:** Yes, ma'am.

25 **THE COURT:** Mr. Moore, you are here today to

1 plead to Receiving Stolen Goods which is a third
2 property offense that carries up to 10 years,
3 Failure to Stop for Blue Light that carries 90 days
4 up to three years, Receiving Stolen Goods is a
5 third property offense that carries up to 10 years,
6 Grand Larceny that carries up to 10 years and
7 Possession of Methamphetamine first offense that
8 carries up to three years. Is that your
9 understanding?

10 **MR. MOORE:** Yes, ma'am.

11 **THE COURT:** Mr. Garren, you are here today
12 to plead to Criminal Domestic Violence of a High
13 and Aggravated Nature. That carries one year up to
14 10 years and Assault and Battery of a High and
15 Aggravated Nature that carries up to 20 years. Is
16 that your understanding?

17 **MR. GARREN:** Yes, ma'am.

18 **THE COURT:** Each of these are violent
19 offenses which means if you receive active jail
20 time, you'll serve a greater percentage than if it
21 were nonviolent offenses. You know that?

22 **MR. GARREN:** (No response.)

23 **THE COURT:** Of your active time? They are
24 violent offenses. You know what that means?

25 **MR. GARREN:** Yes, ma'am.

1 **THE COURT:** Okay. And you know that that's
2 different from an nonviolent offense. It means any
3 active time you get, you'll serve a greater
4 percentage of a violent offense than you would a
5 nonviolent offense. You got that?

6 **MR. GARREN:** Yes, ma'am.

7 **THE COURT:** And then the Assault and Battery
8 of High and Aggravated Nature is a serious offense,
9 meaning if you were to get two other serious
10 offenses on the third, the State could seek life
11 without the possibility of parole against you. You
12 do -- do you know that?

13 **MR. GARREN:** Yes, ma'am.

14 **THE COURT:** All right. Have you discussed
15 these charges with your attorney?

16 **MR. GOSNELL:** Yes, ma'am.

17 **THE COURT:** Mr. Foster?

18 **MR. FOSTER:** Yes, ma'am.

19 **THE COURT:** Mr. McMahan?

20 **MR. McMAHAN:** Yes, ma'am.

21 **THE COURT:** Mr. Brown?

22 **MR. BROWN:** Yes, ma'am.

23 **THE COURT:** Mr. Moore?

24 **MR. MOORE:** Yes, ma'am.

25 **THE COURT:** And Mr. Garren?

1 MR. GARREN: Yes, ma'am.

2 THE COURT: Have you discussed these charges

3 with your lawyer?

4 MR. GARREN: Yes, ma'am.

5 THE COURT: Okay. You happy with what your

6 lawyer's done for you, Mr. Gosnell?

7 MR. GOSNELL: Yes, ma'am.

8 THE COURT: Mr. Foster?

9 MR. FOSTER: I am, Your Honor.

10 THE COURT: Okay. Mr. McMahan?

11 MR. McMAHAN: Yes, ma'am.

12 THE COURT: Mr. Brown?

13 MR. BROWN: Yes, ma'am.

14 THE COURT: Mr. Moore?

15 MR. MOORE: Yes, ma'am.

16 THE COURT: Mr. Garren?

17 MR. GARREN: Yes, ma'am. I'm most

18 satisfied.

19 THE COURT: Okay. Good. Are you under the

20 influence of drugs or alcohol here today, Mr.

21 Gosnell?

22 MR. GOSNELL: No, ma'am.

23 THE COURT: Mr. Foster?

24 MR. FOSTER: No, ma'am.

25 THE COURT: Mr. McMahan?

1 **MR. McMAHAN:** No, ma'am.

2 **THE COURT:** Mr. Brown?

3 **MR. BROWN:** No, ma'am.

4 **THE COURT:** Mr. Moore?

5 **MR. MOORE:** No, ma'am.

6 **THE COURT:** Mr. Garren?

7 **MR. GARREN:** No, ma'am.

8 **THE COURT:** Has anybody forced you to plead
9 guilty or promise you anything to get you to plead
10 guilty here today, Mr. Gosnell?

11 **MR. GOSNELL:** No, ma'am.

12 **THE COURT:** Mr. Foster?

13 **MR. FOSTER:** No, ma'am.

14 **THE COURT:** Mr. McMahan?

15 **MR. McMAHAN:** No, ma'am.

16 **THE COURT:** Mr. Brown?

17 **MR. BROWN:** No, ma'am.

18 **THE COURT:** Mr. Moore?

19 **MR. MOORE:** No, ma'am.

20 **THE COURT:** Mr. Garren?

21 **MR. GARREN:** No, ma'am.

22 **THE COURT:** When you plead guilty, you give
23 up certain constitutional rights. One is your
24 right to remain silent about these charges. Do you
25 know that, Mr. Gosnell?

1 MR. GOSNELL: Yes, ma'am.

2 THE COURT: Mr. Foster?

3 MR. FOSTER: Yes, ma'am.

4 THE COURT: Mr. McMahan?

5 MR. McMAHAN: Yes, ma'am.

6 THE COURT: Mr. Brown?

7 MR. BROWN: Yes, ma'am.

8 THE COURT: Mr. Moore?

9 MR. MOORE: Yes, ma'am.

10 THE COURT: Mr. Garren?

11 MR. GARREN: (No response.)

12 THE COURT: You give up your right to remain

13 silent?

14 MR. GARREN: Yes, ma'am.

15 THE COURT: You also give up your right to a

16 jury trial. At that trial, your attorney can call

17 witnesses for you and cross-examine witnesses

18 against you. But when you plead guilty, you give

19 up your right to a jury trial. You know that, Mr.

20 Gosnell?

21 MR. GOSNELL: Yes, ma'am.

22 THE COURT: Mr. Foster?

23 MR. FOSTER: Yes, ma'am.

24 THE COURT: Mr. McMahan?

25 MR. McMAHAN: Yes, ma'am.

1 **THE COURT:** Mr. Brown?

2 **MR. BROWN:** Yes, ma'am.

3 **THE COURT:** Mr. Moore?

4 **MR. MOORE:** Yes, ma'am.

5 **THE COURT:** Mr. Garren?

6 **MR. GARREN:** Yes, ma'am.

7 **THE COURT:** Mr. Gosnell, Brown, Moore and
8 Garren, you each have charges that have not been
9 before the Pickens County Grand Jury to be
10 indicted. You want to give up that right and plead
11 guilty today anyway, Mr. Gosnell?

12 **MR. GOSNELL:** Yes, ma'am.

13 **THE COURT:** Mr. Brown?

14 **MR. BROWN:** Yes, ma'am.

15 **THE COURT:** Mr. Moore?

16 **MR. MOORE:** Yes, ma'am.

17 **THE COURT:** Mr. Garren?

18 **MR. GARREN:** Yes, ma'am.

19 **THE COURT:** How do you plead, guilty or not
20 guilty, Mr. Gosnell?

21 **MR. GOSNELL:** Guilty.

22 **THE COURT:** Mr. Foster?

23 **MR. FOSTER:** Guilty.

24 **THE COURT:** Mr. McMahan?

25 **MR. McMAHAN:** Guilty.

1 **THE COURT:** Mr. Brown?

2 **MR. BROWN:** Guilty.

3 **THE COURT:** Mr. Moore?

4 **MR. MOORE:** Guilty.

5 **THE COURT:** Mr. Garren?

6 **MR. GARREN:** Guilty.

7 **THE COURT:** You've got 10 days from today's
8 date to appeal this plea if you so choose, but you
9 must do so in writing to this court.

10 Yes, sir.

11 **MR. TOOKER:** Thank you, Your Honor. May it
12 please the Court. With regards to Mr. Gosnell, on
13 the 20th of August 2011 in Pickens County, South
14 Carolina, the victim observed the defendant
15 speeding down his neighborhood street. Saw that
16 happened twice and flagged down the defendant
17 requesting him to slow down. At that point, the
18 defendant exited his vehicle and after a verbal
19 confrontation, punched the victim in the face
20 causing a fracture of a facial bone. Those are the
21 facts as the State would propose to show them at
22 trial. This is a straight up plea. The defendant
23 does have a prior record.

24 **THE COURT:** What's his prior record?

25 **MR. TOOKER:** Starting in 1998, Possession of

1 Controlled Substance, Public Disorderly Conduct,
2 Marijuana, Assault and Battery and Trespass. Then
3 in '99, two counts of Domestic Violence, Malicious
4 Injury to Personal Property and Assault and
5 Battery. 2001, Assault and Battery. 2002,
6 Possession of Cocaine. 2006, Domestic Violence,
7 Domestic Violence High and Aggravated, Malicious
8 Injury, Assault and Battery; 2010, CDV of a High
9 and Aggravated Nature, another Domestic Violence.
10 He received a year on those charges for an August
11 2011 plea. A plea that occurred, I think, six days
12 after this incident. This warrant was not served
13 until June of 2012.

14 **THE COURT:** Okay.

15 **MR. TOOKER:** It's my understanding the
16 prosecutor handling this case was going to ask that
17 he should get credit for the 365 days that he has
18 already done given that the charge wasn't served at
19 the appropriate time. But she has indicated too
20 that she thinks an additional six months to one
21 year would be appropriate given the circumstances
22 and his prior history.

23 **THE COURT:** Mr. Gosnell, you just look like
24 the nicest, sweetest man, and then I hear this
25 record. You must have a problem with your temper.

1 **MR. GOSNELL:** Yes, ma'am. I've got help
2 with it since then.

3 **MR. EPPES:** Your Honor, he actually did a
4 700-day sentence. Isn't that what it was?

5 **MR. GOSNELL:** 711.

6 **MR. EPPES:** 711-day sentence after this
7 happened. He told me -- and he and I have talked
8 about this -- it's his belief and obviously, it
9 doesn't mitigate what he did, but he, uh, -- he
10 spit on -- the victim spit on him and they had a
11 fight. It was a one punch fight. And Your Honor,
12 there's some substantial restitution that Mr.
13 Gosnell is to pay. Given the fact that right after
14 this happened, he got a full dose of the Department
15 of Corrections, I really think an extended
16 probationary sentence and, if you would, encourage
17 him with possible PTUP because it's a substantial
18 amount of restitution. I believe it's \$6000.

19 **MR. TOOKER:** \$6800.

20 **MR. EPPES:** \$6800. He might actually pay
21 this off. His mother is here, Your Honor. His
22 mother and I have known each other our whole lives.
23 His father worked for my old man many years ago.
24 I've known his family forever. Frankly, she's told
25 me before that some of her children deserve to be

1 in jail as well as Bogy. She says that he's really
2 done remarkably well.

3 **THE COURT:** What you called him?

4 **MR. EPPES:** Bogy.

5 **THE COURT:** Bogy? Why they call you Bogy?

6 **MR. GOSNELL:** That's something my mother
7 calls me.

8 **THE COURT:** Okay.

9 **MR. EPPES:** There's two branches of this
10 family, Judge. They all are frankly built like he
11 and I except for the other side of the family. You
12 probably heard of Frankie Gosnell. That whole side
13 of the family is as skinny as a rail. It's the
14 weirdest thing you've ever seen.

15 **THE COURT:** Well, alright. Three years
16 provided upon the service of 365 days with credit
17 for time served. The balance is suspended with
18 probation for five years. Substance abuse
19 counseling, ran -- no -- random drug and alcohol
20 testing, restitution per the restitution order and
21 probation will terminate as quick as you can pay
22 that restitution off.

23 **MR. GOSNELL:** Yes, ma'am.

24 **THE COURT:** Good luck to you.

25 **MR. TOOKER:** Thank you, Your Honor.

1 **MR. GOSNELL:** Thank you.

2 **THE COURT:** Thank you.

3 **MR. TOOKER:** With regards to Mr. Foster, on
4 the 10th of October, 2011, the defendant was pulled
5 over by the Easley Police Department while driving
6 in Pickens County, South Carolina. The tag on his
7 car didn't match the tag he was driving. That's
8 why he was pulled.

9 Officer approached. Smelled alcohol coming
10 from his person. He was read his Miranda rights.
11 He struggled to perform all three stages of the
12 field sobriety tests and was arrested for DUI
13 second and then refused to provide a breath sample.
14 There is -- the charge has been reduced to DUI
15 first.

16 **MR. ALEXANDER:** It's a time-served
17 recommendation, Your Honor. He did 50, 60 days
18 already.

19 **MR. TOOKER:** 53 days is what I have. 53
20 days time served.

21 **THE COURT:** All right. Time served. Good
22 luck to you.

23 **MR. CANTRELL:** Thank you, Your Honor.

24 **MR. TOOKER:** Thank you, Your Honor.

25 **THE COURT:** All right.

1 **MR. TOOKER:** With regards to Jerry McMahan,
2 on the 9th of March, 2011 in Pickens County, the
3 defendant, Mr. McMahan, took a utility trailer from
4 the victim without the victim's permission. And
5 then in September, September 8th, 2011, in Pickens
6 County again, the defendant was in possession of a
7 second victim's utility trailer that had been
8 previously stolen. Law enforcement found the
9 defendant with the utility trailer. He had been
10 working on it. It had been freshly spray painted
11 as if to disguise the identity. The recommendation
12 in this case is probation.

13 **MR. ALEXANDER:** I think it's actually a
14 negotiated sentence, Your Honor. I just ask Your
15 Honor to go along with that.

16 **THE COURT:** Five years suspended with
17 probation for two. Substance abuse counseling.
18 Random drug and alcohol testing. On the other,
19 five years suspended during probation. Best of
20 luck to you.

21 **MR. ALEXANDER:** Thank you, Your Honor.

22 **MR. TOOKER:** Thank you, Your Honor.

23 With regards to Mr. Brown, on the 24th of
24 September, 2012 in Pickens County, Mr. James Owens
25 was allowing the defendant, Mr. Brown, his son-in-

1 law to stay with him while he was out on probation.
2 Because of his status, Mr. Owens took two pistols
3 over to Mr. Lloyd Holder's residence for
4 safekeeping. Mr. Holder and Mr. Owens were
5 neighbors.

6 The defendant then went to Mr. Holder's
7 residence to use the phone and took Mr. Owens' two
8 guns and then five other guns belonging to Mr.
9 Holder. Some of those guns were recovered but
10 others were not. There is a plea agreement in this
11 case, Your Honor.

12 **THE COURT:** All right. What is it?

13 **MR. TOOKER:** That is three years followed by
14 probation with restitution. We will be dismissing
15 an Unlawful Carrying charge.

16 **THE COURT:** Has he served any time in jail?

17 **MR. TOOKER:** I've got one day of credit,
18 Your Honor.

19 **MR. CANTRELL:** That's correct, Your Honor.

20 **THE COURT:** I'll go along with that
21 recommendation.

22 **MR. CANTRELL:** Your Honor, we do have a
23 probation issue also.

24 **PROBATION AGENT:** He was sentenced by Judge
25 Miller on September 24th of '09 to Grand Larceny.

1 Five years suspended to six months house arrest and
2 three years probation. He was also sentenced by
3 Judge Miller on November the 30th of 2010 of
4 Malicious Damage to one year suspended to
5 probation.

6 **THE COURT:** All right.

7 **PROBATION AGENT:** Mostly, failure to contact
8 since June the 12th, failure to report when he was
9 released from Pickens County Detention Center,
10 failure to change, uh, -- notify change of address,
11 getting arrested for possessing a firearm and
12 monetary obligations. He has reported since then.
13 Monetary obligations are current.

14 **THE COURT:** Okay.

15 **MR. CANTRELL:** We would ask that you
16 terminate it under this sentence.

17 **THE COURT:** Is there three years left to
18 terminate on?

19 **PROBATION AGENT:** If he's going to get
20 straight time, we can just terminate it.

21 **THE COURT:** Okay. We'll just terminate it.

22 **PROBATION AGENT:** Thank you, Your Honor.

23 **THE COURT:** Six years provided upon the
24 service of three. Balance suspended with two years
25 of probation to follow. Restitution per the

1 restitution order, substance abuse counseling and
2 random drug and alcohol testing when you are
3 released. Best of luck to you.

4 **MR. CANTRELL:** Thank you, Your Honor.

5 **MR. TOOKER:** Thank you, Your Honor.

6 With regard to Mr. Moore, I have four
7 incidents here. And this is a straight up plea.
8 There's no recommendation in this case, Your Honor.
9 On the 27th of January, 2012, the defendant, Mr.
10 Moore, was in possession of a stolen camper trailer
11 belonging to a Debra Beckwith. He admitted to law
12 enforcement that he knew the trailer was stolen.
13 He's got four prior of property crimes elevating
14 this to a 10-year offense.

15 On the 19th of April, 2012, he was in
16 possession of a 1990 Geo Tracker belonging to one
17 Gary Akridge which the defendant knew was stolen.
18 He had been to the victim's residence several days
19 before. The victim speculates it was taken out of
20 spite, due to bad -- prior bad dealings with the
21 defendant. This is also a third or subsequent
22 offense.

23 On the 15th of May, 2012, while the defendant
24 was being booked at the Pickens Detention Center,
25 officers noticed a baggy of methamphetamine fall

1 out of the defendant's sock. It was later
2 confirmed that the drugs were .3 grams of
3 methamphetamine.

4 Finally, on the 19th of June, 2012,
5 approximately one week after he bonded out on the
6 above charges, he took a 1990 -- excuse me -- 1988
7 Chevy S10 pickup worth a little over \$2000 from the
8 roadside in Pickens County on the 20th, officers
9 observed him driving the stolen truck in Pickens
10 County. He fled when they attempted to pull him
11 over. He was eventually apprehended and admitted
12 that he did steal the truck.

13 He's pleading to these five charges. The
14 total pending were 12 warrants from nine incident
15 dates and five separate bookings. The State is
16 requesting full restitution for all. Mr. Moore
17 does have a prior record.

18 **THE COURT:** All right. Yes, sir.

19 **MR. EPPES:** Your Honor, Mr. Moore has a drug
20 problem as you can already gleam. He tells me that
21 he had straightened out when he got out of jail a
22 few years ago. He actually had had custody of his
23 three daughters. Was taking care of them. His
24 mama and daddy both got diagnosed with cancer. He
25 started on a bender and it wound up being a six-

1 month bender. Uh, he tells me that being in
2 custody, he's been in jail for, I think, six or
3 eight months.

4 **MR. TOOKER:** Got 157 days total although I
5 believe that's short.

6 **MR. EPPES:** Yeah. It's a little over six
7 months. He tells me that he thinks he can stay
8 straight now. I would ask you to consider
9 probation. If you can't consider probation, I'd
10 ask that you consider holding him for a bed for a
11 treatment center. He wants to get his daughters
12 back. He's been trying but, obviously, the drugs
13 just got a hold of him when he was distraught about
14 his parents. He has no explanation other than
15 that. He's sorry for what he has done.

16 As you can see, he's nibbled himself to death.
17 It's like being nibbled to death by ducks. There's
18 nothing in there that's really horrible. It adds
19 up to something that Pickens County can't tolerate.

20 **MR. TOOKER:** Your Honor, I was wrong about
21 the time served. It's more like 250 days.

22 Does that sound right, Mr. Moore?

23 **MR. MOORE:** Yes, sir.

24 **THE COURT:** Eight years provided upon the
25 service of 250 days. Credit for time served. The

1 balance is suspended with probation for three
2 years. Restitution per the restitution order,
3 substance abuse counseling inpatient, random drug
4 and alcohol testing and hold for inpatient bed
5 space and 250 days credit for time served on each
6 of the other ones. Good luck to you.

7 MR. MOORE: Thank you, ma'am.

8 MR. TOOKER: Thank you, Your Honor.

9 THE COURT: Thank you.

10 MR. TOOKER: Uh, now, finally, with regards
11 to Mr. Garren --

12 MR. EPPES: Mr. Garren, you're right here.

13 MR. TOOKER: This is another straight up
14 plea.

15 MR. EPPES: Come on. Come on. Stand here.

16 MR. TOOKER: The facts are really kind of
17 rough. I'll start with the first incident, the CDV
18 high and aggravated. That incident date was the
19 29th of January 2012. On that day, a sheriff's
20 office deputy was dispatched to Mr. Garren's
21 Pickens County, South Carolina residence where he
22 found Garren screaming at the victim, Ms. Tammy
23 Blackwell who is in court and is present today.
24 She does not wish to speak, but she actually has
25 prepared something that I believe her brother is

1 going to read to the court. But was screaming at
2 the victim, Ms. Blackwell. I'm not sure -- she
3 was his live-in girlfriend at the time. He was
4 threatening to beat her.

5 The deputy knocked on the door and encountered
6 the defendant who, at that point, had a pistol in
7 his pocket. The victim was in a state of shock and
8 crying. She said that she knew the defendant was
9 going to kill her.

10 She had some visible injuries to her face.
11 She said that he repeatedly struck her and swung an
12 ax at her head missing by a little bit. The
13 deputies did find the ax and also found a hole in
14 the wall where she said that he had swung the ax at
15 her head. She also said that he had pointed a gun
16 at her when she had called the police. The ax and
17 gun were taken into evidence.

18 With regards to that incident, he's pleading
19 to the CDVHAN. We're dismissing the pointing and
20 presenting that accompanied that.

21 The ABHAN -- and that's under the new statute,
22 the new ABHAN as a lesser included of Attempted
23 Murder. On that incident date, June 29th of 2012,
24 deputies responded again to Mr. Garren's residence
25 in Pickens County. Neighbors called because they

1 heard a female screaming. That was, again, Ms.
2 Blackwell, the victim. She was found wandering
3 around inside the fence on the defendant's
4 property. She didn't have any pants on. She was
5 wearing a shirt. She was holding her pants in her
6 hands.

7 Her face was beaten. I'm going to show Your
8 Honor the picture. I don't think I can express it
9 adequately. But her face was beaten worse than any
10 woman's face I've ever seen. I've never seen
11 anything like that. She was taken to ICU in
12 Greenville. She had several broken bones in her
13 face.

14 She told law enforcement that the assault had
15 actually begun the prior day, on 6/28 and proceeded
16 over the course of more than 24 hours. She said
17 that he threatened her if she tried to leave. He
18 hit her with a lantern, a toaster oven, golf clubs,
19 a wine bottle, those items were recovered from the
20 scene. He asked her if she wanted to die. She
21 says that he forced unknown drugs down her throat.
22 She did test positive to several drugs at the
23 hospital after she was taken in.

24 The defendant fled the residence and was
25 eventually apprehended in another location where he

1 overdosed drugs. Inside, again, in his residence,
2 they found those items that she said he beat her
3 with. One was a belt with parts of her hair and
4 blood coagulated on it.

5 He's pleading straight up to these two
6 charges. I know it's a straight up plea, but the
7 State's of the opinion that a 15-year sentence
8 would be appropriate given the severity of the
9 defendant's actions. He has a prior record but not
10 really substantial, a 1992 conviction for Domestic
11 Violence. But also in between these two incidents,
12 there was that CDV charge in Spartanburg County as
13 well, same victim and the defendant.

14 **MR. EPPES:** Your Honor, the third incident,
15 the incident he's pleading to here is by far the
16 most serious of them.

17 **MR. TOOKER:** Yes, that's true.

18 **MR. EPPES:** That's the reason we kind of put
19 Spartanburg off to get this handled.

20 **THE COURT:** How long has he served in jail?

21 **MR. TOOKER:** He's been in 219 days, Your
22 Honor.

23 **THE COURT:** I believe, sir, you wanted to
24 read something.

25 **SPEAKER:** Yes, ma'am.

1 **THE COURT:** Tell me your name please just
2 for the --

3 **SPEAKER:** My name is Kenny Dunaway.

4 **THE COURT:** Yes, sir.

5 **SPEAKER:** I am Tammy Blackwell's brother.

6 **THE COURT:** Yes, sir.

7 **SPEAKER:** Bear with me. I've been through
8 this with her. Some of this started before they
9 were married. They were married, I believe,
10 January 29th. They've been married approximately
11 five months when this last incident happened. It
12 was the worse of it. They had been apart. He
13 picked her up and kept her that week against her
14 will. But the last two days was the one thing that
15 stands out in her mind.

16 She said it started in the bathroom. He was
17 forcing pills down her. It started in the bathroom
18 where he hit her over the head with wine bottles.
19 He hit her over the head with the medicine cabinet.
20 He actually put water in the tub and baptized her.
21 Baptized her saying he was the Apostle Paul and
22 because they were married that he had the authority
23 to beat as he was going to. He beat her with
24 several objects, mostly golf clubs. She thinks
25 that it was a toaster oven, maybe a lantern. But

Motions

1 at some point, her eyes were swollen shut. She
2 could not see. He tied her up. Kept her for the
3 night. This was the 28th of June, I believe, it
4 was a Thursday. Friday the 29th, he proceeded to
5 start over again. He drug her through every room
6 in the house, beat her in every room in the house.
7 I think evidence shows that.

8 We got a call from the hospital the 30th. She
9 was able to tell me the number to call. She was in
10 ICU in Greenville county. We went to the hospital.
11 You saw the pictures. It was much worse in person.
12 My brother and I and our mother spent about 11 days
13 helping her eat because she could only take liquids
14 and helping her relive this nightmare every day.

15 She had hair cut out because he could not get
16 the blood and the glass out of it. To the date,
17 she has had two reconstructive surgeries on her
18 nose. Seen a neurological doctor for possible
19 neurological damages. She has to have extensive
20 dental work because all her teeth were knocked out.
21 She has to have an eye socket operated on and be
22 reconstructed. The worse thing is the nightmares
23 that she will forego for the rest of her life.

24 I can't imagine -- I've been married for
25 almost 30 years and have never in my life wanted to

1 lay a hand on my wife. I can only think that a man
2 that would want to do this would have to be
3 mentally disturbed. He's pleading to a lesser
4 charge to get less time and get a reduced sentence.
5 She doesn't have that opportunity. He may get a
6 lesser sentence, but she will live with this for
7 the rest of her life. That's what she has told me,
8 that she has a life sentence.

9 But I had asked her the one thing that stood
10 out to me in the hospital after we had been there
11 for a few days and actually got through what had
12 happened, I asked her how did she manage to get
13 away. She said at some point Friday afternoon or
14 Friday night, she got it in her mind that she was
15 convinced that it was going to be a matter of
16 survival for her to get loose. She actually
17 encouraged him to take pills. He passed out.

18 She put a shirt on. Had her underwear on.
19 Grabbed a pair of pants and went to her driveway
20 which is approximately an eighth to a quarter of a
21 mile. I had asked her how she could see. She said
22 she had to hold her eyes open. This was about 8:15
23 or 8:30 when -- she calls it an escape. And she
24 hid from him several times thinking maybe he would
25 come after her. I think around 9:30 or 10 o'clock,

1 I believe, is when she was discovered by her
2 neighbors across the road.

3 Like I said, she's going to have to serve a
4 life sentence. He's not going to get a life
5 sentence but he should get the maximum amount that
6 could be applied to him so that he will understand
7 what it's like to suffer the way she has.

8 **THE COURT:** Thank you, sir. I appreciate
9 you being here and speaking on behalf of your
10 sister.

11 Yes, sir.

12 **MR. EPPES:** Your Honor, as the victim's
13 brother so aptly stated, my client obviously has
14 some mental problems. He has very little memory of
15 this period of time. He informs me that both of
16 them take pills. He self-medicates for a variety
17 of abnormalities.

18 He also has a disease that the detention
19 center could confirm where iron builds up in his
20 blood. He literally has to have a pint of blood
21 taken from him between every two weeks and every
22 month. Since he's gotten into the detention center
23 and gotten off pills, he tells me he's gained 46
24 pounds. He's gained 46 pounds.

25 He has no explanation for his conduct. He

1 describes the situation more akin to mutual combat.
2 I, frankly, explained to him that self-defense is
3 not an adequate excuse given the size
4 discrepancies. He understands that. He wants to
5 get this behind him. His mother is here. I'd like
6 you to let her speak briefly and then let him speak
7 to you.

8 **THE COURT:** I'll let her speak briefly.
9 Yes, ma'am. Tell me your name please.

10 **SPEAKER:** Nancy Pearly. I'm afraid that
11 some of the details that they are telling --

12 **MR. EPPES:** Don't talk about that. Talk
13 about him.

14 **SPEAKER:** All right. My son has got
15 numerous health problems. He needs medical help,
16 which he's getting some at the LEC.

17 **THE COURT:** Uh-huh.

18 **SPEAKER:** But he has a team of doctors and
19 some of them he's not been able to attend because
20 they won't take him. I ask that this -- to try to
21 help him with drug rehab. It was prescription
22 drugs. He's never hurt anybody before.

23 **THE COURT:** He certainly did this time.
24 Thank you, ma'am.

25 **SPEAKER:** Thank you.

1 **MR. EPPES:** Your Honor, obviously, uh,
2 obviously I think ATU would be an important
3 component of this. In addition, I'd ask that you
4 consider something that allows him to get out of
5 jail and take care of his problems after a period
6 of time. I'd ask you to consider a three-to-five-
7 year sentence with time hanging over his head and
8 five years probation. Obviously, if anything even
9 -- if he ever commits another crime, he's going to
10 jail the rest of his life.

11 **THE COURT:** This case is beyond pale. I'm
12 not sure. It's not a maximum sentence, but I'll do
13 15 years credit for 219 days. I'll put ATU on
14 there. And 10 years. Credit for 219 days.

15 **MR. EPPES:** Thank you, Your Honor.

16 **THE COURT:** Good luck.

17 **MR. TOOKER:** Thank you, Your Honor.

18 **THE COURT:** Thank you.

19 **(WHEREUPON, the proceedings conclude at**
20 approximately 3:15 p.m.)

21

22

23

24

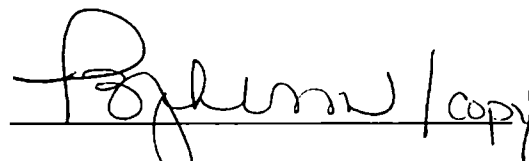
CERTIFICATE

34

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Pickens, South Carolina, on this 20th day of February, 2014.

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

A handwritten signature in black ink, appearing to read 'T. Johnson / copy', written over a horizontal line.

Teresa B. Johnson

Circuit Court Reporter

FORM 5

2013-CP-391380

STATE OF SOUTH CAROLINA

County of PickensBrandon Kevin Garren 354160

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

Case # 2012 GS 3902677and # 2013 GS 39-311

APPLICATION FOR

POST-CONVICTION RELIEF

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

2013 NOV 4 PM 12:39

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

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

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

1. Place of detention Kirkland correctional institution
2. Name and location of Court which imposed sentence General Sessions Court Pickens S.C.
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which ~~and~~ the offenses for which sentence was imposed:
 - (a) See back
 - (b) See back

Building E

* Papers Hand Delivered for Filing *

f. (a) # 2012 GS 390 2677

Assault/assault + Battery of a high and aggravated
Nature in violation of § 16-03-0600 (B)(1)

b) # 2013-GS-39-311

Domestic/Criminal Domestic Violence in violation
of § 16-25-0065

(c) _____

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

(a) 1-31-13 2012 GS3902677 - 15 years

(b) 1-31-13 2013-GS-39-311 - 10 years

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. _____

ii. N/A

iii. _____

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

i. _____

ii. N/A

iii. _____

(c) the date of each such result:

i. _____

ii. N/A

iii. _____

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

i. _____

ii. N/A

iii. _____

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

(a) See back

(b) _____

2013 NOV 4 PM 12:39
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

- 9.(a) Due to being in a state of lethargy from medication given me by the Pickens County Jail which was mind altering, and the result of medical treatment being given me by the cancer centers of the Carolinas, the combined effects rendered me unable to think of filing an appeal.
- b) Same as a., also ineffective counsel

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) See back
- (b) See back
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Medical Records of Pickens County Jail
- (b) Medical Record of Cancer Center of Carolinas
- (c) former attorneys Records
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. N/A
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. N/A
- iii. _____
- iv. _____

10.(a) Due to being in a state of lethargy from medication given to me by the pickens county Jail which was mind altering, and the result of medical treatment being given me by the Cancer center of the Carolinas, The combined effects rendered me unable to, or incompetent to enter a plea.

(b) Being in a state of lethargy when my attorney spoke to me he knew, I was in no condition to enter a plea and should of had me evaluated.

(c) Ineffective Counsel

(d) My plea was NOT KNOWING AND voluntary due to the reasons stated above.

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. N/A
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. N/A
- iv. _____

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

- i. _____
- ii. _____
- iii. N/A
- iv. _____

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

NO

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

(a) which grounds have been presented:

- i. _____
- ii. N/A
- iii. _____

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

- i. _____
- ii. N/A
- 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) See response to Question #9
 (b) _____
 (c) _____

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

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

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

(a) the name and address of each attorney who represented you:
 i. Frank L. Epps S.C. Bar # 7839
1225 S. Church St.
Greenville, S.C. 29605
 ii. _____
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. arraignment and plea, sentencing
 ii. _____
 iii. _____

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

See Back

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

NO

2013-CP-39-1380

STATE OF SOUTH CAROLINA)

County of Pickens)

VERIFICATION

I, Brandon Kevin Garren, 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.

Brandon K. Garren
Brandon K. Garren

SWORN to and subscribed before me this 29th
day of October 2013.

Deandra A. [Signature] (L.S.)
Notary Public

My Commission Expires: Apr. 112, 2023

2013 NOV 4 PM 12 39
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

19. That my case be reheard at a trial and evidence be presented in my defense or in the alternative a reduction of sentence and that an attorney be appointed to represent me throughout the proceedings.

2013-CP-39-1380

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

I, Brandon Kevin Garren, 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.

Brandon K. Garren
Brandon K. Garren

Applicant

SWORN or affirmed to and subscribed before me this

29th day of October, 2013.

Sherrill A. Tiger
Notary Public

My Commission Expires: April 12, 2023

2013 NOV 4 PM 12 39
CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2013-CP-39-1380
COUNTY OF PICKENS	)	
	)	
Brandon Kevin Garren,	)	
S.C.D.C. No. 354160,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed November 4, 2013,¹ the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Pickens County Clerk of Court's orders of commitment. The Pickens County Grand Jury indicted the Applicant at the December 2012 term of General Sessions for attempted murder (2012-GS-39-2677). The Applicant waived presentment to the Grand Jury for criminal domestic violence of a high and aggravated nature (CDVHAN) (2012-GS-39-0311). Frank Eppes, Esquire represented the Applicant.

On January 31, 2013, the Applicant pled guilty. The Honorable Letitia H. Verdin sentenced the Applicant to concurrent sentences of fifteen years for attempted murder and ten years for CDVHAN. The Applicant did not appeal.

Attached herewith and incorporated herein by reference are the records of the Pickens County Clerk of Court regarding the subject convictions and the Applicant's records from the

¹ The Respondent did not receive this application until June 27, 2014.

South Carolina Department of Corrections. The plea transcript will be forwarded upon receipt.

II.

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

1. "Due to being in a state of lethargy from medication given to me by the Pickens County jail which was mind altering, and the result of medical treatment given me by the Cancer Center of the Carolinas, the combined effects rendered me unable to, or incompetent to enter a plea."
2. "Being in a state of lethargy when my attorney spoke to me he knew, I was in no condition to enter a plea and should have had me evaluated."
3. Ineffective assistance of counsel.
4. Involuntary guilty plea.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386

S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983).

IV.

The Applicant's assertion that his guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by

showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "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).

When determining issues relating to guilty pleas, the court will consider the entire record,

including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248.

V.

The Respondent denies each allegation not expressly admitted, qualified or explained.

VI.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

8/22, 2014

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

IN THE COURT OF COMMON PLEAS

2013-CP-39-1380

BRANDON KEVIN GARREN, 354160)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

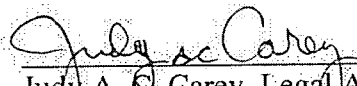
STATE OF SOUTH CAROLINA,)

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** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Brandon Kevin Garren, 354160
Kirkland Correctional Institution
4344 Broad River Road
Columbia SC 29210**

DATED this 22nd day of August, 2014.


Judy A. C. Carey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

COURT OF COMMON PLEAS
2013-CP-39-01380

BRANDON KEVIN GARREN,
APPLICANT,)

vs.)

TRANSCRIPT OF RECORD

STATE OF SOUTH CAROLINA,
RESPONDENT.)

COPY

December 15, 2014
Pickens, South Carolina

B E F O R E:

THE HONORABLE EUGENE C. GRIFFITH, JR., JUDGE.

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

R. MILLS ARIAIL, JR., ESQ.
Attorney for the Applicant

KAREN C. RATIGAN, ESQ.
Attorney for the Respondent

HOLLIE M. JENKINS
Circuit Court Reporter

I N D E X

(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent's Witness

Page No.

<u>(AW) BRANDON KEVIN GARREN:</u>	
Direct Examination by Mr. Ariail.....	4
Cross-Examination by Ms. Ratigan.....	9
<u>(RW) FRANK LANGSTON EPPES:</u>	
Direct Examination by Ms. Ratigan.....	12
Cross-Examination by Mr. Ariail.....	17

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

THE COURT: All right. Ms. Ratigan.

MS. RATIGAN: May it please the Court, Your Honor.

THE COURT: Yes, ma'am.

MS. RATIGAN: This is the case of Brandon Garren v.
the State of South Carolina. The docket number is
2013-CP-39-1380.

Mr. Garren was indicted for attempted murder. He,
also, waived presentment on the charge of criminal
domestic violence of a high and aggravated nature. He was
represented on these charges by Mr. Eppes.

On January 31st of 2013, he pled guilty. He,
actually, pled guilty to the lesser charge of ABHAN. And
he, also, pled guilty to criminal domestic violence of a
high and aggravated nature. Judge Verdin sentenced him to
concurrent terms of 15 years for ABHAN, and then 10 years
for CDVHAN.

He did not file an appeal. His application was
timely filed.

So the State is ready to proceed.

THE COURT: All right. Mr. Ariail.

MR. ARIAIL: Thank you, Your Honor.

I'm ready to proceed. I call Mr. Garren to stand.

THE CLERK: Place your left hand on the Bible and
raise your right hand, please.

1 WHEREUPON,

2 BRANDON KEVIN GARREN,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: State your full name for the record.

5 THE WITNESS: Brandon Kevin Garren.

6 THE CLERK: Please be seated.

7 DIRECT EXAMINATION

8 BY MR. ARIAIL:

9 Q Mr. Garren, how are you doing today?

10 A Okay.

11 Q If you maybe can come up just a little bit to the
12 microphone. You're kind of hard to hear.

13 Mr. Garren, you were represented by Mr. Eppes in
14 regards to the charges you just heard Ms. Ratigan put on
15 the record; is that correct?

16 A Yes, sir.

17 Q Okay. Now, tell me -- let's go back. I think your
18 relatives hired Mr. Eppes; is that correct?

19 A Yes, sir.

20 Q Okay. Tell me what conversations you had with
21 Mr. Eppes about your case.

22 A I had very little conversations with him. He come to
23 see me in the county two, if not three, times. The first
24 time was to cash -- get to where he could cash the check.
25 And then the second time, I think he come to see me and

1 said he was going to get a deal.

2 Q Okay. Now, let's go back. Were you ever -- did you
3 ever post bond in this case?

4 A No, sir.

5 Q Okay. How long were you incarcerated before the
6 charges -- before you pled guilty?

7 A Six months.

8 Q Okay. And when was the first time that Mr. Eppes
9 came to see you after you had been incarcerated?

10 A I don't recall.

11 Q Okay. So he saw you two to three times; is that
12 right?

13 A Yes, sir.

14 Q Okay. Did y'all discuss the charges that you had?

15 A I really don't recall. I mean, I -- he told me he
16 had a deal made. I was told that he had a deal made. And
17 I was going to plead to some prison time and probation.

18 Q Okay. Tell me -- when you say "a deal," did he say,
19 specifically, how many -- you're pleading to an active
20 sentence, or was it going to be probation only? What --
21 tell me what you -- what he told you.

22 A I -- what I understood was some prison time and
23 probation.

24 Q Did he say prison time as in one year?

25 A Something about two to five, or something like that.

1 Q Okay. Did you ever get a plea offer from him showing
2 anything from two to five years?

3 A No, sir.

4 Q Did you ever get a plea offer?

5 A I never got no [sic] plea offer at all.

6 Q Okay. Now, I know you've raised some issues in
7 regards to your case. And one of them is dealing with
8 medication and the effects on you regarding --
9 understanding what was going on. Can you go into some
10 detail about that?

11 A I don't know what kind of medication they was giving
12 me in the county. But they have a way of giving
13 medication that's -- they have a bunch of little glasses
14 on a tray. And they just give you medicine. I don't know
15 if they give me the wrong medicine or what they done. But
16 I had a reaction two different times to that medicine they
17 give [sic] me.

18 Q Okay. Have you at any time ever had a mental
19 evaluation?

20 A No, sir. They never did have me one for -- while I
21 was in the county the whole time.

22 Q Okay. Do you think that -- did you want one, or ever
23 request one, or talk to Mr. Eppes about that?

24 A I think my mother had requested to get one.

25 Q Okay. I guess -- and what I'm trying to understand,

1 did you understand what you were doing on the day you pled
2 guilty?

3 A No, sir.

4 Q Okay. Did you explain that to Mr. Eppes, or have a
5 conversation with him about, I don't know what I'm doing,
6 what I'm pleading guilty to, or any of that?

7 A Mr. Eppes told me that he wouldn't never represent me
8 again when he come into the courtroom that day -- I meant
9 into the hallway. I reckon that was where it's at. And I
10 thought I was to plead guilty to the two to five and the
11 time -- and the probation.

12 Q And, see, I've -- I mean, I've read through your
13 transcript. That's what I'm trying to understand is where
14 you got this two to five. I don't -- is there anything in
15 writing --

16 A No, sir.

17 Q -- or anything from Mr. Eppes that he told you, hey,
18 two to five is what it's going to be? Because you got a
19 lot more than that.

20 A Not that I know of.

21 Q Did anybody at your -- did you family hear this or --
22 I mean, tell me how you got this impression that you were
23 getting two to five.

24 A Well, my mother told me he had a deal, the deal was
25 already made. And when she called him after trial, he

1 said that he got the wrong judge.

2 Q Okay. Well, there was, also, an issue you raised in
3 regards to a 911 call that was made?

4 A Yes, sir. I called 911 on the first CDV charge. And
5 they didn't even get the transcript of the call or get a
6 statement from me. But I got 10 years for it. I mean, it
7 looks to me like that that would be relevant to what -- I
8 made the 911 call because she attacked me.

9 Q All right.

10 A And that never was brought into evidence and nobody
11 ever -- I tried to get the 911 call myself. And they
12 wouldn't give it to me because I called and give [sic] her
13 name.

14 Q Okay. Well, let me go through, because I've got a
15 couple of questions about that. Now, this 911 call, you
16 called in. Did y'all discuss any type of legal issues
17 like mutual combat, or any type of defense you may have to
18 those charges? Self-defense?

19 A No. But Mr. Eppes I think -- I read in the court
20 transcript that he told the Judge it was mutual combat.

21 Q So he said it was?

22 A It was.

23 Q Okay. And that's what I'm trying to figure out. Was
24 there any evidence in there that you discussed with
25 Mr. Eppes about mutual combat before you pled guilty?

1 A I don't understand what you're saying.

2 Q I guess what I'm, basically, saying is, did he go
3 through and explain to you what you'd have to prove, or
4 what they -- I mean, if you're saying it's mutual combat,
5 did he explain to you --

6 A I think the 911 call would have been sufficient
7 enough to prove that I called 911 because she attacked me.

8 Q Okay.

9 A And she attacked me again. I had the front door open
10 waiting for the police to come. And I had to hold her
11 down on the bed to keep her from attacking me. Well, they
12 locked me up.

13 Q Do you remember what you said on the 911 call?

14 A It was something to the effect that she's gone crazy.
15 She took a bunch of pills and has gone crazy.

16 Q Okay. So you thought that would have been helpful
17 towards a defense for yourself?

18 A Yes, sir.

19 MR. ARIAIL: I have no further questions, Your Honor.

20 CROSS-EXAMINATION

21 BY MS. RATIGAN:

22 Q So when Mr. Eppes would come to talk to you at the
23 jail, y'all never really talked about the case. Is that
24 what your testimony is?

25 A The first time he come, he wanted to talk about

1 getting the money that he was paid.

2 Q Okay. What about the next time?

3 A The next time, I don't even recall. I mean --

4 Q Okay.

5 A -- I was under such duress the whole time I was in
6 that county jail.

7 Q Okay. So you don't recall one way or the other what
8 y'all talked about?

9 A The only thing I really recall is how I got the
10 transcript of the trial and read it myself. That's the
11 only way I can remember what happened.

12 Q Okay. Well, do you remember telling Mr. Eppes what
13 had happened with the victim on these two occasions, like
14 kind of your version of what happened that day? Did you
15 tell him that?

16 A I told him -- I'm pretty sure I did.

17 Q You just don't remember?

18 A I just don't remember.

19 Q Okay. And, in addition to these charges, you had
20 another CDV charge in Spartanburg; is that correct, with
21 the same victim?

22 A Yes, sir -- yes, ma'am.

23 Q And Mr. Eppes, also, handled that case for you; is
24 that correct, or is that another lawyer?

25 A Yeah. He handled it.

1 Q Okay. So you don't remember anything about the
2 guilty plea itself?

3 A No, ma'am.

4 Q Okay. So you don't remember telling the judge that
5 no one had made any promises to you? You don't recall
6 that?

7 A No, ma'am.

8 Q And do you recall telling Mr. Eppes that morning that
9 you just didn't understand what was going on, or you just
10 don't recall?

11 A Mr. Eppes come in the hallway and told me he wasn't
12 never going to represent me again.

13 Q Okay. So you recall that conversation with
14 Mr. Eppes, you just don't remember anything else about the
15 plea?

16 A That's it.

17 MS. RATIGAN: Okay. That's all I have, Your Honor.

18 MR. ARIAIL: Nothing further, Your Honor.

19 THE COURT: All right. You can step down.

20 MR. ARIAIL: Your Honor, that's our case.

21 MS. RATIGAN: Your Honor, the State would call
22 Mr. Eppes.

23 THE COURT: All right. Mr. Eppes, come around.

24 THE CLERK: Place your left hand on the Bible and
25 raise your right hand, please.

1 WHEREUPON,

2 FRANK LANGSTON EPPES,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: State your full name for the record.

5 THE WITNESS: Frank Langston Eppes.

6 DIRECT EXAMINATION

7 BY MS. RATIGAN:

8 Q Mr. Eppes, were you retained in this case?

9 A I was.

10 Q Did you file the usual Brady and Rule 5 discovery
11 motions?

12 A I did.

13 Q To the best of your knowledge, did you receive full
14 discovery from the State?

15 A I believe that I did.

16 Q Is Mr. Garren's testimony correct that he never
17 bonded out?

18 A I believe so.

19 Q So you would have gone to visit him at the jail?

20 A I did.

21 Q During these visits, would you have reviewed the
22 discovery materials with Mr. Garren?

23 A I would have discussed it with him. I don't know
24 that I would have shown him the documents themselves. But
25 I would have discussed the content of them, particularly

1 the photographs.

2 Q Would you have discussed with him the impact that
3 those photographs had upon your ability to mount a
4 defense?

5 A I would have.

6 Q The photographs, would you characterize them as being
7 harmful to your case?

8 A The photographs were fairly devastating to the case.
9 The alleged victim was beat up pretty badly.

10 Q With these charges, did you review with Mr. Garren
11 the elements of the charges and the sentencing ranges?

12 A I would have explained to him the elements of the
13 charges and the sentencing ranges, yeah.

14 Q And did you, also, represent him on a CDV charge in
15 Spartanburg with the same victim?

16 A I did.

17 Q Okay. Did Mr. Garren tell you his version of what
18 had happened with these events in Pickens County?

19 A He -- I know he did with the charge that was -- what
20 I considered the lead charge, the ABWIK. I believe we
21 discussed the CDV, but we would not have discussed that as
22 extensively. The assault and battery with intent to kill,
23 once it became and ABHAN was the worst charge by far.

24 Q Did you ever tell Mr. Garren that he -- you had
25 gotten him some kind of a deal for two to five years and

1 probation?

2 A I told him that I anticipated a jail sentence and
3 probation. But I never tell my clients the years, unless
4 I have it from the Solicitor.

5 Q Was there ever an actual offer in this case, or was
6 that just what you guessed he would receive?

7 A Honestly, as I sit here, I don't remember if there
8 was ever a specific offer in years. There may have been
9 one. And if it was, it was around 15 years.

10 Yeah. I'm looking through my notes. You can plead
11 straight up to the aforementioned charges, or to 15 years.

12 Q And did you convey that offer to Mr. Garren?

13 A I would have told him that those were the options,
14 yes.

15 Q Okay. And did he reject the offer, or is that --
16 y'all ended up pleading straight up?

17 A I gave him my advice that we should plead straight
18 up. And that's what we decided to do.

19 Q Okay. Did you ever during your course of
20 representation see the need for a competency evaluation
21 for Mr. Garren?

22 A You know, I have -- competency, no. But I'm going to
23 expound on that, if I may.

24 Q Uh-huh.

25 A This case has been one that bothered me since

1 Mr. Garren got his sentence. We had a situation where we
2 were supposed to have a different judge in the morning.
3 He was not transported until the afternoon. And the
4 switch in judges, I believe, added something to his
5 sentence. I can't say how much. But I think it did add
6 something.

7 But as I racked my brain about this case -- and I
8 think about it from time to time, because he has a great
9 family. I have thought many times I really wish that we
10 had taken the time to get a psychological evaluation.
11 Because while I did, at that time, believe him to be
12 competent and I continue to believe he is competent, I
13 believe there are some psychological issues that would
14 have mitigated his punishment and materially affected the
15 sentence that he got. And I really regret that I did not
16 do that.

17 Q Did he have any -- did he share with you that he had
18 any prior mental health treatment or history?

19 A I was not aware of any. But he had extensive health
20 problems that went to his mental health going back a
21 decade or more. He had some kind of vitamin deficiency
22 that really affects his ability to do everything.

23 Q Mr. Garren has testified that he did not understand
24 what was happening at the plea, that he was kind of out of
25 it. Did he appear to be engaged that morning? Did he

1 appear to be following what was happening?

2 A He appeared to be following what was happening. And
3 I have no memory of telling him what he says that I would
4 never represent him again. I may have said that he had an
5 appeal and I wouldn't be representing him on the appeal.
6 But I don't remember saying that. But I will be the first
7 to admit that I'm occasionally pretty stern with my
8 clients.

9 Q Do you recall at any point the day of the plea him
10 telling you that he didn't understand what was going on?

11 A No.

12 Q If he had appeared to be kind of spacey and out of it
13 that day, what would you have done?

14 A Again, as I go back and look at this case, Mr. Garren
15 always appears a little bit spacey and out of it to me.
16 And, as I go back and look at the case, I have some
17 concerns that a psychological evaluation should have been
18 done, and that I made a mistake in not doing that.

19 Q And that would have been for mitigation purposes?

20 A It would have been for mitigation purposes and,
21 perhaps, for understanding purposes. I don't know the
22 answer to that right now. But my perception, at the time,
23 was that he understood what was going on.

24 Q Okay. And the last question. Did you ever consider
25 getting -- or did you receive the tape of the 911 call on

1 the CDV charge?

2 A I have no memory of that at all. And, again, I --
3 like I said, that charge was not the charge I was
4 concerned with. It was the other one.

5 Q If he had asked you to obtain that tape or a
6 transcript of that tape, is that something you would have
7 done?

8 A I believe I would have, but I can't say any -- I have
9 no memory of it either way today.

10 MS. RATIGAN: That's all I have, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. ARIAIL:

13 Q Frank, just to go back about the psych evaluation.
14 Do you think it's the best course of action today to go
15 back and maybe get him a psych evaluation and figure out
16 whether or not he was competent or -- because it sounds
17 like you were using it to see if he understood, and then,
18 also, for mitigation purposes to --

19 A If you're asking me, I really would like to see that
20 done. Because, as I said, I -- you know, I've had a lot
21 of cases over the years. And I've had a number of people
22 get sentences comparable to Mr. Garren's. But I have very
23 few that I just sit and rack my brain thinking there must
24 have been something that I could have done differently
25 like this one. Because the case was so odd and his affect

1 is to this day so much different than my typical client
2 that I have real concerns that I made a mistake.

3 Q Okay. Now, this 911 tape -- and I want to
4 understand. Is -- did y'all discuss -- he says you
5 brought up mutual combat or an issue with --

6 A I have no memory of that CDV or that 911 tape. I,
7 literally, focused on the assault and battery with intent
8 to kill to charge --

9 Q Right.

10 A -- which, to me, was the charge that was driving the
11 sentencing. So I just have no memory of the other one.

12 Q Okay. And I guess it seems to be that they have a
13 history together. There's another CDV in Spartanburg.
14 Would that --

15 A They have a long and violent history, which, again,
16 makes me question whether I just was blind to the
17 potential mental health issues because of that long
18 history.

19 Q Okay. And at no time -- I know he's thrown out the
20 two to five-year range. You hadn't heard anything and
21 didn't receive an offer of that range?

22 A I never tell my clients a time amount in a plea. I
23 never do, unless I have a recommendation from the
24 Solicitor.

25 MR. ARIAIL: Your Honor, I have no further questions.

1 THE COURT: Anything else, Ms. Ratigan?

2 MS. RATIGAN: No, Your Honor.

3 THE COURT: You may step down.

4 MS. RATIGAN: The State would rest, Your Honor.

5 THE COURT: Again, I'll review everything and let
6 y'all know my decision as promptly as I possibly can.

7 *****END OF TRANSCRIPT OF RECORD*****
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CERTIFICATE OF REPORTER

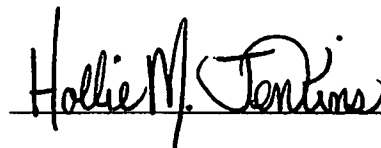
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth 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 captioned case, relative to appeal, in the Court of Common Pleas for Pickens County, South Carolina, on the 15th day of December, 2014.

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

May 26, 2015

A handwritten signature in cursive script, reading "Hollie M. Jenkins", is written over a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

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STATE OF SOUTH CAROLINA } CLERK OF COURT } IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS } PICKENS COUNTY } C.A. NUMBER: 2013-CP-39-1380
SOUTH CAROLINA }

BRANDON GARREN #354160,

APPLICANT,

VS.

STATE OF SOUTH CAROLINA,

RESPONDENT.

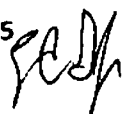
**ORDER GRANTING APPLICATION
FOR POST CONVICTION RELIEF**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed November 4, 2013. The Respondent made its return on August 22, 2014. An evidentiary hearing into the matter was held on December 15, 2014 at the Pickens County Courthouse. The Applicant was present and represented by R. Mills Ariail, Jr., Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's trial counsel, Frank Eppes, Esquire. The Court had before it the trial transcript, the Pickens County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application, the return, the appellate records, and Applicant's Exhibit 1.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Pickens County Clerk of Court. The Applicant was indicted at the December 2012 term of the Pickens County Grand Jury for attempted murder (2012-GS-39-



2677). The Applicant waived presentment to the Grand Jury for criminal domestic violence of a high and aggravated nature (2012-CP-39-311). He was represented by Frank Eppes.

On January 31, 2013, the applicant pled guilty. On January 31, 2013, the Honorable Letitia H. Verdin sentenced the Applicant to concurrent terms of 15 years for ABHAN and 10 years for criminal domestic violence of a high and aggravated nature. The Applicant did not appeal.

ALLEGATIONS

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

1. "Due to being in a state of lethargy from medication given to me by the Pickens County jail which was mind altering, and the result of medical treatment given me by the Cancer Center of the Carolinas, the combined effects rendered me unable to, or incompetent to enter a plea".
2. "Being in a state of lethargy when my attorney spoke to me he knew, I was in no condition to enter a plea and should have had me evaluated."
3. Ineffective assistance of counsel.
4. Involuntary guilty plea.
5. Not being mentally competent to plead guilty.

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 and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. §17-27-80 (2003).

INEFFECTIVE ASSISTANCE OF COUNSEL

The Applicant alleges he received ineffective assistance of counsel. In a PCR action,



"[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). In order to prove prejudice, an applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052).

Trial counsel testified he was retained in this case and filed discovery motions. Trial counsel testified he received discovery materials and reviewed them with the Applicant. Trial counsel testified he also reviewed the charges, elements, and sentence ranges and that the Applicant relayed his version of events.

At Applicant's PCR hearing, Applicant testified that he could not remember the specifics of his guilty plea. Applicant also testified that he was under the influence of medication which he believes affected his ability to understand what he was doing on the day of his plea. Applicant's attorney testified that he was not aware of any mental health issues with Applicant but that he believed that a psychological evaluation was needed.

The Court finds the Applicant has met his burden proving trial counsel should have

requested that Applicant have a psychological evaluation before Applicant plead guilty and that applicant was under the influence of medication which affected his ability to understand what he was doing on the day of his plea. The Applicant can demonstrate prejudice in this regard by showing that he did not understand the specifics of his guilty plea because of his mental incapacity and that he would not have pled guilty if he was not under the influence of medication at the time of his plea.

Accordingly, this Court finds the Applicant has proved the first prong of the Strickland test-that trial counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant has presented specific and compelling evidence that trial counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has proven the second prong of Strickland-that he was prejudiced by trial counsel's performance. This Court concludes the Applicant has met his burden of proving counsel failed to render reasonably effective assistance.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has established constitutional violations or deprivations before or during his plea and sentencing proceedings. Counsel was deficient and the Applicant was prejudiced by counsel's representation. Therefore, this PCR application must be granted.

This Court advises the Respondent that they can file a notice of intent to appeal within thirty (30) days from the receipt of this Order if Respondent-wants to secure the appropriate appellant review. Attention is also directed to Rules 203, 206 and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal



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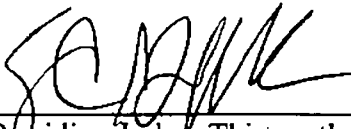
has been timely filed.

CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be granted; and
2. That the Applicant's convictions be vacated and his charges remanded for a new trial.

AND IT IS SO ORDERED this 9th day of March, 2015.



Presiding Judge, Thirteenth Judicial Circuit

#2154

Pickens, SC
Date: March 9, 2015
@ Newberry, SC



STATE OF SOUTH CAROLINA

COUNTY OF Pickens
 STATE VS.
Brandon Kevin Garren

AKA:

Race: WHITE Sex: M Age: 50DOB: 1963 SS#: [REDACTED]

Address:

City, State, Zip: Easley, SC 29640-7687DL#: [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: Assault/Assault and Battery of a High and Aggravated Nature

in violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411
☐ 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 [Signature] 7839 [Signature] 7839
Tooker, Sam SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon 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. 219 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 ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$
§ 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)	\$3.90
TOTAL	\$133.90

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS3902677A/W#: 1678009Date of Offense: 6/29/2012S.C. Code § 16-03-0029CDR Code #: 3410

SENTENCE SHEET

0-20 YEARS☐ CONVICTED OF or ☒ PLEADS

Presiding Judge

Judge Code: 2102Sentence Date: 11/31/13

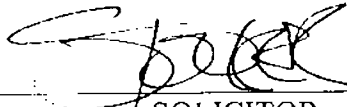
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on DEC 11 2012 the Grand Jurors of Pickens
County present upon their oath:

That BRANDON KEVIN GARREN did in Pickens County on or about the 29th day of June 2012,
unlawfully with malice aforethought and with the intent to kill, attempt to kill Tammy Blackwell. This is
in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

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



SOLICITOR

WITNESSES

Anthony Raines

Pickens County Sheriff's Office

6/30/2012

ARREST WARRANT NUMBER

1678009

ACTION OF GRAND JURY

TRIAL FILE

DATE

DEC 11 2012

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-39-^{SBT} 2677

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

DEC 11 2012 TERM 2012

THE STATE

vs.

BRANDON KEVIN GARREN

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

ARREST WARRANT

I-678009

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

THE STATE

2012-15319

against

Brandon Kevin Garren

Address:

Easley, SC 29640-7687

Phone: SSN:

Sex: M Race: W Height: 6 2 Weight: 150

DL State: SC DL #:

DOB: /1963 Agency ORI #: SC0390000

Prosecuting Agency: Pickens County Sheriff

Prosecuting Officer: Anthony Raines - 0224

Offense: Murder / Attempted Murder

Offense Code: 3410

Code/Ordinance Sec: 16-03-0029

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe 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 BRANDON KEVIN GARREN

on

6-30-12

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Session
P O Box 215
Pickens, SC 29671

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Personally appeared before me the affiant Anthony Raines

who

being duly sworn deposes and says that defendant Brandon Kevin Garrendid within this county and state on or about 6/29/2012

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Pickens)

in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Attempted Murder

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:

The defendant, Brandon Kevin Garren, did on 6/29/2012 with intent to kill, did attempt to kill his wife, Tammy Carol Blackwell. The victim is the estranged wife of the defendant and resides outside of Pickens County. The victim did voluntarily return to the defendant's residence located at Easley, SC where the defendant held her against her will. He then repeatedly beat her over a period of several hours about her head and face utilizing a toaster oven, a lantern, and a wine bottle. The act was committed with malice aforethought resulting in severe wounds to the victim's face and head. The totality of the circumstances that includes the weapons used by the defendant and the resulting injuries to the victim establishes probable cause the defendant intended to kill the victim. 1. PCSO Incident Report # 2012-15319. 2. Victim's verbal statement to Deputies. 3. Statement of a witness. 3. Photographs of the victim's injuries. 4. Deputy's observations of the crime scene.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Affiant's Address 216 Lec Road
Pickens, SC 29671-Affiant's Telephone (864)898-5500

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 6/29/2012defendant Brandon Kevin Garren

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

☒ County/ ☐ Municipality of Pickens

) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Attempted Murder

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 6/30/2012Signature of Issuing Judge
Charles Joseph WolfeJudge Code: 7089

(L.S.)

Judge's Address 216-A Law Enforcement Center Road
Pickens, SC 29671-2636Judge's Telephone (864)898-5552Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

JUL - 3 2012 08

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

81

COUNTY OF
STATE

Pickens

VS.

Brandon Kevin Garren

AKA:

Race: Sex: M Age: 50

DOB: 1963 SS#: [REDACTED]

Address:

City, State, Zip: Easley, SC 29640-7687

DL#: [REDACTED] SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Domestic / Criminal Domestic Violence Of

INDICTMENT/CASE#: 2013-GS-39-311

A/W#: M521703

Date of Offense: 1/29/2012

S.C. Code § : 16-25-0065

CDR Code #: 2988

SENTENCE SHEET

03200 1-10 YRS

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-25-0065 of the S.C. Code of Laws, bearing CDR Code # 2988

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or 2nd 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:

Tooker, Sam

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:☒ 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 219 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

PTUP

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
§ 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)	\$3.90
TOTAL	\$133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ 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:

Sentence Date:

Handwritten signature: Harold P. Wellman

Handwritten signature: Teresa Johnson

Handwritten signature: [Signature]

Handwritten date: 7/31/13

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED
NATURE

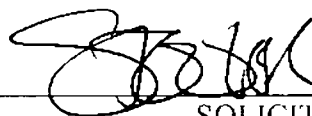
At a Court of General Sessions, convened on

the Grand Jurors of Pickens

County present upon their oath:

That BRANDON KEVIN GARREN did in Pickens County, on or about the 29th day of January, 2012, intentionally commit an assault and battery which involved the use of a deadly weapon or resulted in serious bodily injury to a household member, TAMMY BLACKWELL, and/or BRANDON KEVIN GARREN did intentionally commit an assault with or without an accompanying battery, which would reasonably cause a person to fear imminent serious bodily injury. This is in violation of §16-25-65 of the South Carolina Code of Laws (1976) as amended.

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



SOLICITOR

WITNESSES

Charles Musselwhite

Pickens County Sheriff's Office

1/30/2012

ARREST WARRANT NUMBER

M521703

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-39-^{SBT} 311

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

TERM 2012

THE STATE

vs.

BRANDON KEVIN GARREN

Indictment for

2988

**DOMESTIC VIOLENCE OF A HIGH AND
AGGRAVATED NATURE**

VIOLATION § 16-25-0065

ARREST WARRANT

M-521703

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

THE STATE

against

Brandon Kevin Garren

Address:

Easley, SC 29640-7687

Phone: SSN: [REDACTED]

Sex: M Race: Height: Weight:

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] 1963 Agency ORI #: SC0390000

Prosecuting Agency: Pickens County Sheriff's Office

Prosecuting Officer: Charles Musselwhite - 1845

Offense: Domestic / Criminal domestic violence of a high and aggravated nature

Offense Code: 2988

Code/Ordinance Sec: 16-25-0065

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: Brandon Garren

on 1/30/12

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Liberty - Pickens County Summary Court
147 B Kay Holcombe Rd
Liberty, SC 29657

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Personally appeared before me the affiant Charles Musselwhite who

being duly sworn deposes and says that defendant Brandon Kevin Garren

did within this county and state on or about 01/29/2012 violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Pickens)

in the following particulars:

DESCRIPTION OF OFFENSE Domestic / Criminal domestic violence of a high and aggravated nature

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:

On 1/29/12 the defendant did wilfully and intentionally cause physical harm to the victim, Tammy Blackwell (spouse). According to a written statement from the victim, the defendant choked her, attempted to smother her with a pillow, and slapped her in the face several times. He then attempted to hit her in the head with an axe as she was attempting to flee into a bathroom. The defendant then attempted to injure her by grabbing her feet and head, and pulling them backwards telling her he was going to "tear her apart" referring to an incision the defendant had in her abdomen due to recent surgery. Finally the defendant pointed a .22 pistol at her and threatened to kill her. This incident occurred at the marital home within Pickens County. The defendant's actions caused the victim to fear serious bodily injury or death. 1. Incident report #12-2268. 2. Statement from victim. 3. Recovery of axe and pistol.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Affiant's Address 216 Lec Road
Pickens, SC 29671-

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 1/29/2012 defendant Brandon Kevin Garren

did violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Pickens) as set forth below:

DESCRIPTION OF OFFENSE: Domestic / Criminal domestic violence of a high and aggravated nature

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 01/30/2012 (L.S.)

Signature of Issuing Judge

Bruce E Anders

Judge Code: 7064

Judge's Address 147 B Kay Holcombe Road
Liberty, SC 29657-1543

Judge's Telephone (864)843-5821

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

L. Garro
FOR

FEB - 8 2012 84

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 07/14/14
OMCOMITA RELEASE DATE SCREEN C023981
SCDC# > 354160 LOC: KIRKLAND
GARREN, BRANDON KEVIN SCDC CLASSIFICATION... VIOLENT
OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY... N
SEXUAL PREDATOR...: NOT APP
DNA STATUS.....: COMPLETED
GPS REQUIREMENT...: N
PREA DECISION.....
CURRENT SENTENCE: 015-00-000 CONSECUTIVE SENTENCE ...: N
015-00-000 CURRENT SENT START DATE: 06/26/2012
PROJECTED COMPLETION DATES
MAXOUT DATE: 02/19/2026 CURRENT EWC ..: NOT CURRENTLY EARNING EWC
YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
INITIAL PAROLE DATE: 00/00/0000 NEXT PAROLE HEARING DATE: 00/00/0000

TOTAL GT DAYS EARNED: 000072 LABOR CREW/WORK PROG DATE: 99/99/9999
TOTAL EARNED WORK CREDITS ...: 000000 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS: 000000 CATEGORY 4 OR 5 OFFENSE
TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00
TOTAL SERVICE TIME EARNED ...: 000738 ISS.....

PFKEYS: 5:HISTORY OF DATE CHANGES

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 07/14/14

C0239

GARREN, BRANDON KEVIN FBI # 367536W8 SID# SC00302882 SCDC # 354160

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION ... KIRKLAND CORR INST

SECURITY/CUST.: 3 MINIMUM IN

CURR INCARC SENT...: 15 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: YES

SOCIAL SECURITY #....: [REDACTED]

DORM.....: EB10034A

RACE....:W SEX...:M

PROJ MAXOUT DATE: 02/19/2026

PROJ PAROLE DATE: 00/00/0000

EWC JOB...: NO CURRENT JOB

EDUC PGM.: NO CURR EDUC PROGRAM

EWC LEVEL: 0 EEC LEVEL:

ASSIGNMENT...: GENERAL DETAIL UNEM

CURRENT PROGRAM...: COURT-ORD ATU

AGE...: 51 DATE OF BIRTH...: [REDACTED]/63

PREVIOUS NUMBERS:

** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE			COUNTY	SENTENCE			CATEGORY
	YRS	MOS	DYS		START	V/NV		
ABHAN	15	0	0	PICKENS	6/26/2012	V	4	
CDVHAN MAND MIN 1YR	10	0	0	PICKENS	6/26/2012	V	4	

PRIOR COMMITMENTS OVER 90 DAYS:

NO PRIOR COMMITMENTS OVER 90 DAYS

DETAINERS (HOLD, WANTED, NOTIFY):

NO DETAINERS

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES WHILE IN CUSTODY

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

NO NON-ASSAULTIVE DISCIPLINARY HISTORY

HISTORY OF MOVEMENTS:

DATE	LOCATION	STATUS	REASON
6/11/14	KIRKLAND	INCARCERATED	ADMINISTRATIVE
6/11/14	PALMETTO RCHLAN	AUTH ABSENCE (AWL)	MEDICAL
2/ 5/13	KIRKLAND	INCARCERATED	R&E PROCESSING
2/ 5/13	PERRY	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
*NO WORK ASSIGNMENTS *				

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
NO SCHOOL ASSIGNMENTS			

***** END OF REPORT *****

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS3902677

A/W#: 1678009

Date of Offense: 6/29/2012

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

~~0-20 YEARS~~☐ CONVICTED OF or ☒ PLEADSCOUNTY OF
STATE

Pickens

VS.

Brandon Kevin Garren

AKA:

Race: WHITE Sex: M Age: 50

DOB: 1963 SS#: [REDACTED]

Address:

City, State, Zip: Easley, SC 29640-7687

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: Assault/Battery of a High and Aggravated Nature

in violation of § 16-03-0600(B)(1)

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS of the S.C. Code of Laws, bearing CDR Code # 3411☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or 2nd offense)The charge is: ☒ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand JuryThe plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Tooker, Sam

SC Bar# 7817

Defendant

Attorney for Defendant

SC Bar# 7839

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
§ 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	\$ 25.00
§ 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

_____ 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: ATU☐ 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:

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS
STATE VS.

Brandon Kevin Garren

AKA: _____
Race: _____ Sex: M Age: 50
DOB: 1963 SS#: _____
Address: _____
City, State, Zip: Easley, SC 29640-7687
DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was
TO: Domestic / Criminal Domestic Violence Of

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013-GS-39-311
A/W#: M521703
Date of Offense: 1/29/2012
S.C. Code § : 16-25-0065
CDR Code #: 2988

SENTENCE SHEET

1-10 YRS

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-25-0065 of the S.C. Code of Laws, bearing CDR Code # 2988
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §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: _____ (Defendant's Initials)

Tooker, Sam SC Bar# _____ Defendant _____ Attorney for Defendant _____ SC Bar# 2839

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

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections 219 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
§ 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(I) (Vehicle Assessment)	\$40/ca
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$ 133.90

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: _____

Presiding Judge _____
Judge Code: _____
Sentence Date: 7/31/13