

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Laurens County

Honorable R. Scott Sprouse, Circuit Court Judge

PHILLIP A. BRIDGES,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-002510

APPENDIX

VICTOR R. SEEGER
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
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ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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State of South Carolina)
) Court of General Sessions
 County of Laurens)
) 2009-GS-30-825

State of South Carolina)
) Transcript of Record
) vs.)
) Phillip Andrew Bridges)
))
) Defendant)

December 13, 2016
 Laurens, South Carolina

B E F O R E:

Honorable Alexander S. Macaulay, Judge

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

Jared Simmons, Assistant Solicitor
 Attorney for the State

Thomas Adducci, Public Defender
 Attorney for the Defendant

Joy E. Holston
 Official Court Reporter

1 THE COURT: All right, you may call your next case.

2 MR. SIMMONS: Thank you, Your Honor. State calls
3 Phillip Andrew Bridges on indictment 2009-GS-30-0825. He
4 is charged with trafficking meth, reducing that down to
5 possession with intent to distribute meth first.
6 Recommendation is concurrent with his current time at
7 SCDC, Your Honor.

8 THE COURT: Just a moment, please. And your name,
9 please.

10 MR. ADDUCCI: Thomas Adducci.

11 THE COURT: Mr. Adducci, you represent the Defendant?

12 MR. ADDUCCI: Yes, I do, Your Honor.

13 THE COURT: Thank you. Now the plea is to, what is
14 the charge on the plea?

15 MR. SIMMONS: The charge was trafficking meth between
16 10 grams--

17 THE COURT: -- yeah, but what is the plea.

18 MR. SIMMONS: The plea is to possession with intent
19 to distribute.

20 THE COURT: PWID?

21 MR. SIMMONS: Yes, sir. Yes, Your Honor.

22 THE COURT: What is the maximum sentence of
23 possession with intent to distribute meth?

24 MR. SIMMONS: 0 to 15 years and/or \$25,000.00 dollar
25 fine.

1 THE COURT: \$25,000.00, okay. Are you Phillip Andrew
2 Bridges?

3 MR. BRIDGES: Yes, sir.

4 THE COURT: If you would, please, raise your right
5 hand or as well as you can.

6 PHILLIP ANDREW BRIDGES, being
7 first duly sworn, testified as follows:

8 THE COURT: You have heard and is that the
9 recommendation that you understand, Mr. Adducci?

10 MR. ADDUCCI: Yes, Your Honor. The recommendation
11 is, the goal is to not add a day to his current sentence,
12 to just run this sentence concurrent. What I think would
13 be the most appropriate way to do that is to, he is
14 currently serving five years with a start date of June
15 24th of 2016.

16 THE COURT: So you are cleaning up the charges?

17 MR. ADDUCCI: Yes, Your Honor.

18 THE COURT: So you want to backdate it to June 24th,
19 2016.

20 MR. ADDUCCI: That's correct, Your Honor.

21 THE COURT: And it would be a five year sentence?

22 MR. ADDUCCI: Yes, Your Honor.

23 THE COURT: Is that correct, Solicitor?

24 MR. SIMMONS: Yes, Your Honor.

25 THE COURT: Do you understand that, Mr. Bridges?

1 MR. BRIDGES: Yes sir, I do.

2 THE COURT: You want me to accept that
3 recommendation?

4 MR. BRIDGES: Yes, sir.

5 THE COURT: How old are you, sir?

6 MR. BRIDGES: I am 50 years old, sir.

7 THE COURT: And how far did you go in school?

8 MR. BRIDGES: I graduated in '84, sir.

9 THE COURT: What kind of work do you do?

10 MR. BRIDGES: I build houses with my family, my
11 nephew and my two brothers.

12 THE COURT: Are you married?

13 MR. BRIDGES: No sir, I have got two children.

14 THE COURT: How old are your children?

15 MR. BRIDGES: 22 and 11.

16 THE COURT: Who does the 11-year-old live with?

17 MR. BRIDGES: His mama.

18 THE COURT: Do you contribute towards your son's
19 support?

20 MR. BRIDGES: Yes, sir.

21 THE COURT: Do you do it voluntarily or through court
22 order?

23 MR. BRIDGES: Yes, sir.

24 THE COURT: Voluntary?

25 MR. BRIDGES: Voluntary, yes sir.

1 THE COURT: Are you under the influence of any
2 medication, drugs or alcohol at this time?

3 MR. BRIDGES: No, sir.

4 THE COURT: Are you aware of any physical, mental or
5 emotional problems that might keep you from understanding
6 what you are doing today?

7 MR. BRIDGES: No, sir.

8 THE COURT: You do understand the maximum sentence
9 for possession with intent to distribute methamphetamine
10 is 15 years and \$25,000.00 dollars?

11 MR. BRIDGES: Yes, sir.

12 THE COURT: And this is also a graduated offense. In
13 other words, if you are convicted of the same or similar
14 crime in the future, the punishment next time would be
15 greater but you will have a prior offense. Do you
16 understand that?

17 MR. BRIDGES: Yes, sir.

18 THE COURT: And this is first offense, is that
19 correct?

20 MR. SIMMONS: That's right.

21 THE COURT: Thank you. Have you fully discussed all
22 aspects of your case with your lawyer?

23 MR. BRIDGES: Yes, sir.

24 THE COURT: Need more time to talk to your lawyer?

25 MR. BRIDGES: No, sir.

1 THE COURT: Are you completely satisfied with Mr.
2 Adducci's services as your attorney?

3 MR. BRIDGES: Yes, sir.

4 THE COURT: You do understand when you plead guilty
5 you waive and give up certain important constitutional
6 rights. First, you give up the right to remain silent,
7 that is the right to say nothing at all. Secondly, you
8 give up your right to a jury trial where you will be
9 presented to be innocent, all twelve members of the jury
10 must be convinced of your guilt beyond a reasonable doubt.
11 And third, you give up your right to confront, that is the
12 right to see, hear and cross-examine witnesses called
13 against you as well as the right to present and call
14 witnesses on your own behalf. Do you understand all of
15 these rights?

16 MR. BRIDGES: Yes sir, I do.

17 THE COURT: Do you understand when you plead guilty
18 you waive and give up your constitutional rights?

19 MR. BRIDGES: Yes, sir.

20 THE COURT: Do you understand when you plead guilty
21 you admit the truth of the charges made against you?

22 MR. BRIDGES: Yes, sir.

23 THE COURT: Understanding then the nature of the
24 offenses, the offense and the consequence of a guilty plea
25 how do you wish to plea to this charge?

1 MR. BRIDGES: Guilty, sir.

2 THE COURT: Has anyone promised you anything or
3 threatened you to get you to plead guilty other than the
4 recommended sentence?

5 MR. BRIDGES: No, sir.

6 THE COURT: Are you in fact guilty of the charge?

7 MR. BRIDGES: Yes, sir.

8 THE COURT: You want to tell me what you did?

9 MR. BRIDGES: Yes, sir.

10 THE COURT: What did you do?

11 MR. BRIDGES: I had possession of meth.

12 THE COURT: How much?

13 MR. BRIDGES: I ain't sure of the weight of it, it
14 was more than 10, less than 28.

15 THE COURT: All right. Supports a trafficking charge
16 or at least possession with intent to distribute. Is that
17 correct?

18 MR. BRIDGES: Yes, sir.

19 THE COURT: Did you know what you did was wrong?

20 MR. BRIDGES: Yes, sir.

21 THE COURT: You believe you would be convicted if you
22 stood trial?

23 MR. BRIDGES: Yes, sir.

24 THE COURT: All right, Solicitor, what are the facts
25 that you have?

1 MR. SIMMONS: Thank you, Your Honor. On April 4th,
2 2009 officers with the Laurens County Sherrifs Office went
3 to Lodgeview Court in Laurens County to execute a search
4 warrant in regards to a stolen leaf blower and chainsaw.
5 Upon entering the residence they encountered some people
6 in a living room. They directed the officers to the
7 bedroom. Upon entering the bedroom officers saw the
8 Defendant along with the Defendant's brother cutting up a
9 white powdery substance. The Defendant had a \$20.00
10 dollar bill in his hand rolled up and the brother had a
11 knife in his hand cutting the powdery substance. In
12 securing the subjects more white powdery substance was
13 found in bags in and around the bedroom, later tested
14 positive for methamphetamine.

15 THE COURT: Do you agree with the facts stated by the
16 Solicitor?

17 MR. BRIDGES: Sir?

18 THE COURT: Do you agree with the facts that is
19 stated by the Solicitor?

20 MR. BRIDGES: Yes, sir.

21 THE COURT: Prior record?

22 MR. SIMMONS: Yes, Your Honor. DUI and simple
23 possession in '84; DUI second in '87; simple possession
24 and a false into--

25 THE COURT: Simple possession meth?

1 MR. SIMMONS: Simple possession for marijuana.

2 Sorry, Your Honor.

3 THE COURT: All right.

4 MR. SIMMONS: Assault and battery in '93; possession
5 of a controlled substance in '95; CDV in 2004; malicious
6 injury to personal property in 2008; and then possession
7 of meth in 2008 and a DUI in 2001 in Georgia. He is
8 currently serving time at SCDC for manufacturing meth and
9 possession with meth which were charges after these
10 charges, Your Honor.

11 THE COURT: I did notice this is a 2009 indictment.

12 MR. SIMMONS: Yes, Your Honor.

13 THE COURT: All right, do you agree with your record
14 as well?

15 MR. BRIDGES: Yes, sir.

16 THE COURT: Has each and every answer you have given
17 the Court today been absolutely truthful?

18 MR. BRIDGES: Yes, sir.

19 THE COURT: All right, I find there is a substantial
20 factual basis for this plea and I find the Defendant's
21 decision to plead guilty is freely, voluntarily, knowingly
22 and intelligently made with the advice of counsel, an
23 attorney with whom the Defendant says he is satisfied.
24 The Defendant's plea of guilty is accepted. All right,
25 anything further from the State?

1 MR. SIMMONS: No, Your Honor.

2 THE COURT: Mr. Adducci, what do you have to say on
3 behalf of Mr. Bridges?

4 MR. ADDUCCI: Just briefly, Your Honor. This is an
5 old case that Mr. Bridges wants to get cleared up, clear
6 the decks for himself. He knows he is going to be in SCDC
7 until probably about 2019 on his charges and wants to get
8 out and hopefully get back to work with his family. JM
9 Bridges Builders, they work with Quinn and Satterfield
10 which is a general contractor in Greenville. They do a
11 lot of housing developments, they build nice homes in
12 Greenville. He has previously done treatment at the
13 Phoenix Center. He does have addiction problems and he
14 understands that as long as he stays off the drugs he is
15 doing well. He is a hard worker, makes money, helps out
16 with his family. We just ask the Court to go along with
17 the recommendation, to backdate the sentence to June 24th
18 of this year and let him serve out his time at SCDC.
19 Anything else you would like to say?

20 MR. BRIDGES: No, sir.

21 THE COURT: Mr. Bridges, you have one child; 11 years
22 old?

23 MR. BRIDGES: Yes, sir.

24 THE COURT: A son?

25 MR. BRIDGES: Yes, sir.

1 THE COURT: How old do you want him to be when he
2 starts using meth?

3 MR. BRIDGES: Sir, I am going to get out and become a
4 productive member of society and I don't want him using no
5 drugs, just led me down the wrong, the wrong road I
6 started at a young age, I had older brothers. You know, I
7 just ask for forgiveness and I am ready to get all of this
8 behind me, sir.

9 THE COURT: All right. You didn't come here for a
10 lecture or a sermon but I am just curious, whenever we say
11 somebody that obviously has ability and has proven
12 themselves as a responsible person, to get into something
13 that has no future. And, of course, when you have the
14 responsibility of a child that makes it even more
15 important. It is no matter what we might want to do, it
16 is what we do.

17 MR. BRIDGES: By example, yes sir.

18 THE COURT: All right. The sentence that he is
19 serving now is an active sentence with no probation? And
20 also if you have the indictment number that would be good
21 for me too, it would be necessary really.

22 MR. SIMMONS: I will hand this up.

23 THE COURT: Does that have the sentence on it too?

24 MR. SIMMONS: Yes sir, it should.

25 THE COURT: Let's see. There are two indictments,

1 13-GS-23-1001 or 100, excuse me, 1011 and then 1010. Is
2 that correct?

3 MR. SIMMONS: I believe so, Your Honor.

4 THE COURT: For the sentencing sheet I want to be
5 sure that he gets credit when I put down his concurrent
6 for the sentences under those two indictments. Are you
7 appointed?

8 MR. ADDUCCI: Yes, Your Honor.

9 THE COURT: All right, is there anything else from
10 the State?

11 MR. SIMMONS: No, Your Honor.

12 THE COURT: Anything else on behalf of Mr. Bridges,
13 Mr. Adducci?

14 MR. ADDUCCI: No, Your Honor.

15 THE COURT: Mr. Bridges, anything else?

16 MR. BRIDGES: No, sir.

17 THE COURT: Indictment number 2009-GS-30-825, the
18 sentence of the Court, the Defendant, Phillip Andrew
19 Bridges be committed to the State Department of
20 Corrections for a term of five years and pay the cost and
21 assessment as applicable. The sentence is to run
22 concurrent with the sentences on indictment numbers
23 2013-GS-23-1011 and 1010, beginning June the 24th of 2016.
24 Special condition of the sentence is for him to have drug
25 and alcohol testing and treatment, substance abuse

1 counseling as directed to include ATU while incarcerated.
2 I am going to put, again, under the other specifications
3 of those conditions of the sentence, that the sentence is
4 to begin on June the 24th. It says to begin as of June
5 the 24th, 2016. All right, good luck to you, sir.

6 MR. SIMMONS: Thank you, Your Honor.

7 MR. ADDUCCI: Thank you, Your Honor.

8 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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CERTIFICATE OF REPORTER

State of South Carolina)
)
County of Newberry)

I, Joy E. Holston, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Laurens, South Carolina on the 13th day of December, 2016.

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

April 11, 2017

Joy Holston

Joy E. Holston, Court Reporter

My Commission expires: May 2, 2026

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of Laurens)

Phillip Andrew Bridges)

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

v.)

State of South Carolina)

2017 CP30 -219

APPLICATION FOR
POST-CONVICTION RELIEF

LAURENS COUNTY
CLERK OF COURT

2017 MAR 22 P 3:45

LYNN W. LANCASTER

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 Goodman Correctional
2. Name and location of Court which imposed sentence Laurens General Sessions Circuit Court.
3. Name(s) of co-defendant(s) (if any) Joel Bridges
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 09 GS-30-0825 - Manufacturing Distribution
 - (b) PWID Methamphetamine

(c) _____

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

(a) 12-13-2016 (5yrs)

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

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

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

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) Was not informed by my Attorney

(b) But did request Appeal And he denied me to Appeal. 2 Denied me my Right.

(c) to And Appeal.

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

(a) Ineffective Assistance of Counsel, Due Process Violation

(b) _____

(c) _____

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

(a) _____

(b) _____

(c) _____

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

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? NO

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

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

(a) which grounds have been presented:

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

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

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

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

- (a) Attorney failed to Appeal After requested too
- (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? _____
- (c) your sentencing? _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

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. Tom Adducci P.O. Box 174 Laurens, SC 29360
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Guilty Plea
 - ii. _____
 - iii. _____

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

Reverse/Remand or Vacate Conviction

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

Yes (In process of challenging it also)

STATE OF SOUTH CAROLINA)
County of Laurens)

VERIFICATION

I, Phillip Andrew Bridges, 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.

X Phillip Andrew Bridges

SWORN to and subscribed before me this 17th day of March, 2017

[Signature] (L.S.)
Notary Public

My Commission Expires: 8/30/2021

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

I, Phillip Andrew Bridges, 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.

Phillip Andrew Bridges
Applicant

SWORN or affirmed to and subscribed before me this
17th day of March, 2017.

T. Eichelberger
Notary Public

My Commission Expires: 8/30/2020

22

Phillip Andrew Bridges #347312

3-17-17

Goodman Corr. Inst.

Dorm 3-27-T

4556 Broad River Rd

Columbia, S.C.

29210

2017 CP30-219

In Re: Filing P.C.R Application / Return Copy
filed clock stamped for my records

Dear Clerk of Court,

Find enclosed the P.C.R
Application that needs filing, clock stamp dated.
And copy return to me for my records.

Thank You Very Much!

S. Phillip A. Bridges

LAURENS COUNTY
CLERK OF COURT

2017 MAR 22 P 3:45

LYNN WELAND-STER

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	FOR THE 8 th JUDICIAL CIRCUIT
COUNTY OF LAURENS)	Case No.: 2017-CP-30-00219
Philip Andrew Bridges, #370294,)	
)	
Applicant,)	AMENDED POST-CONVICTION
)	RELIEF APPLICATION
v.)	
)	
State of South Carolina.)	
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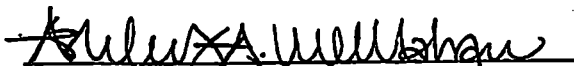
The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on March 22, 2017, to add the following allegations:

1. Ineffective Assistance of Counsel as to Claude H. Howe, III:
 - a. Counsel failed to file a motion for a speedy trial. Applicant's case was pending for approximately seven years.
 - b. Failed to request the Solicitor to dismiss charges once the charges against Greg Bridges and Junior Woods were dismissed.
 - c. Counsel failed to present to the Solicitor the letter from the co-defendant wherein the co-defendant admits responsibility for the drugs at the residence.
2. Ineffective Assistance of Counsel as to Thomas J. Adducci, Esquire:
 - a. Counsel failed to file a motion for a speedy trial since Applicant's case was pending for approximately seven years.
 - b. Counsel failed to argue what the co-defendant had gotten as a sentence in Applicant's sentencing phase of his guilty plea, co-defendant has taken responsibility for the crime, and the Applicant was merely present at the residence at the time. *See State v. Dennis*, 321 SC 413, 486 SE2d 674 (Ct App 1996).
 - c. Counsel failed to present to the Solicitor the letter from the co-defendant wherein the co-defendant admits responsibility for the drugs at the residence.
 - d. Counsel told Applicant he could not have a jury trial. But for counsel's statement that Applicant could not have a trial, Applicant would not have plead guilty and would have insisted on going to trial.

Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been

specifically addressed in the Application and this Amended Application. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



ASHLEY A. McMAHAN, ESQUIRE
MAC | VANCE ATTORNEYS, LLC
PO Box 5501
West Columbia, SC 29171
803-219-1110
ashley@macvance.com
SC Bar No. 71676
ATTORNEY FOR APPLICANT

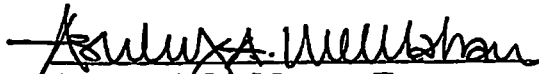
September 27, 2017

CERTIFICATE OF SERVICE

I certify that I have served this document via US Mail to:

Justin J. Hunter
Assistant Attorney General
SC Attorney General's Office
PO Box 11549
Columbia, SC 29211-1549

This 27th Day of September, 2017.



ASHLEY A. McMAHAN, ESQUIRE
Attorney for Applicant

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	OF THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF LAURENS)	
)	2017-CP-30-219
Philip Andrew Bridges,)	
SCDC# 370294,)	
)	
Applicant,)	RETURN
)	
v.)	
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

In response to the application for post-conviction relief filed by Philip Andrew Bridges (Applicant) on March 22, 2017, Respondent would show this Court:

I.

Applicant was formerly confined with the South Carolina Department of Corrections pursuant to orders of commitment of the Laurens County Clerk of Court. Applicant was indicted at the July 2009 term of the Laurens County Grand Jury for trafficking methamphetamine (2009-GS-30-825). Applicant was represented by Thomas Adducci, Esquire. On December 13, 2016, Applicant pled guilty before the Honorable Alexander S. Macaulay to the lesser included offense of PWID methamphetamine. Pursuant to a recommendation, he was sentenced to imprisonment for five years. Applicant's sentence was set to run concurrently to two five-year terms of imprisonment imposed in Greenville County on June 24, 2016 for manufacturing methamphetamine, 2nd offense (2013-GS-23-10011) and possession of methamphetamine, 3rd offense (2013-GS-23-10010) Applicant did not appeal his plea or conviction.

II.

Applicant alleges he was being held unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
2. Due Process Violation

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at evidentiary hearing. All amendments should be made well in advance of hearing and should be filed as required by Rule 11, SCRCP(a).

Attached herewith and incorporated herein are the Laurens County Clerk of Court records regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, and the plea transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent submits plea counsel rendered effective assistance of counsel. In a Post-Conviction Relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, Applicant must prove that counsel's performance was deficient.

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

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

IV.

Applicant claims that he was denied effective assistance of counsel because his plea attorney did not file a notice of appeal from his guilty plea. Respondent submits that plea counsel for Applicant was diligent in his representation of Applicant and that he performed within the wide range of reasonable professional assistance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984). The decision of the South Carolina Supreme Court, in White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974), holds that even though the post-conviction relief court finds that the applicant had never voluntarily and intelligently abandoned his appeal, the court has no jurisdiction to grant a belated appeal. However, where an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his statutory right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the post-conviction relief decision,

will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected.

Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000). Respondent submits that Applicant cannot satisfy the requirements set forth in the Roe test. However, the allegation of counsel's failure to advise Applicant regarding the possibility of an appeal probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983); Delaney v. State, 269 S.C. 555, 238 S.E.2d 679 (1977).

V.

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

VI.

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

VII.

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

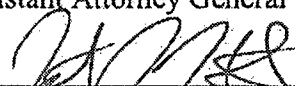
Respectfully submitted,

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Attorney General

ROBERT BOLCHOZ
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Senior Assistant Deputy Attorney General

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Assistant Attorney General

By: 
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June 30, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LAURENS)
)
 PHILIP ANDREW BRIDGES, # 370294)
)
 Applicant,)
))
 vs)
))
 STATE OF SOUTH CAROLINA,)
)
 Respondent,)
 _____)

IN THE COURT OF COMMON PLEAS

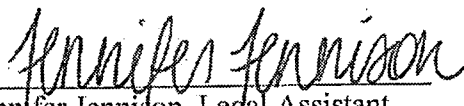
2017-CP-30-219

AFFIDAVIT OF SERVICE BY MAIL

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

Ashley A. McMahan
Mae | Vance Attorneys, LLC
PO Box 5501
West Columbia, SC 29169

DATED this the 30th day of June, 2017.



 Jennifer Jennison, Legal Assistant
 For Respondent

State of South Carolina)
) Court of Common Pleas
 County of Laurens)
 Post Conviction Relief

2017-CP-30-00219

Philip A. Bridges)
 vs.) Transcript of Record
)
)
 State of South Carolina)
 Defendant)

October 11, 2017
 Laurens, South Carolina

B E F O R E:

Honorable R. Scott Sprouse, Judge

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

Justin Hunter, Assistant Attorney General
 Attorney for the State

Ashley McMahan, Esq.
 Attorney for the Applicant

Joy E. Holston
 Official Court Reporter

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

1		
2	(IC) - Denotes In Camera	
3	(AW) - Denotes Defense Witness	
4	(SW) - Denotes State's Witness	
5	<u>(AW) Philip Bridges</u>	
6	Direct examination by Ms. McMahan:	4
7		
8	<u>(SW) Chip Howe</u>	
9	Direct examination by Mr. Hunter:	18
10	Cross-examination by Ms. McMahan:	22
11		
12	<u>(SW) Thomas Adducci</u>	
13	Direct examination by Mr. Hunter:	25
14	Cross-examination by Ms. McMahan:	32
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18	Certificate of Reporter	35
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EXHIBITS

Applicant's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
1	Letter 1-18-2011		X	10

1 MR. HUNTER: May it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 MR. HUNTER: The next case is Philip Bridges versus
4 the State of South Carolina. It is 2017-CP-30-219. Your
5 Honor, he was indicted the July of 2009 term in Laurens
6 County for trafficking methamphetamine, 2009-GS-30-825.
7 He was initially represented by Mr. Chip Howe and was
8 ultimately represented by Mr. Thomas Adducci. On December
9 13th of 2016 he plead guilty before Judge Macaulay to the
10 lesser included offense of PWID methamphetamine. And
11 pursuant to a recommendation he was sentenced to five
12 years imprisonment. He did not file a direct appeal. He
13 filed his current action March 22nd, 2017. He is present
14 today represented by Ms. Ashley McMahan.

15 THE COURT: All right, Ms. McMahan.

16 MS. MCMAHAN: Your Honor, the Applicant calls Mr.
17 Bridges.

18 THE COURT: Mr. Bridges, come around to the witness
19 stand, please.

20 PHILIP BRIDGES, being
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 By Ms. McMahan:

24 Q Did you file this PCR application?

25 A Yes, ma'am.

1 Q Who were you represented by, who were your two
2 attorneys?

3 A Chip Howell, (sic); and then the day I come up here,
4 Mr. Adducci.

5 Q Okay. So how long did Mr. Howe represent you for?

6 A From the day of arrest, I reckon for seven years or
7 so.

8 Q So he represented you from the day you got arrested
9 until just before you plead guilty?

10 A Yes, ma'am.

11 Q When were you arrested?

12 A 2009. I don't really know the date.

13 Q When was your guilty plea?

14 A December the 16th of '16.

15 Q 2016?

16 A Yes, ma'am.

17 Q It is a long time for a case to be pending. Mr. Howe
18 represented you most of that time?

19 A Yes, ma'am.

20 Q Did you ever ask him to file a speedy trial motion?

21 A Yes ma'am, back in 2011, or '12, I think it was. He
22 sent me a letter of acknowledgment, of receiving it that
23 he would do that for me. And I had a copy of it.

24 Q Of the letter?

25 A Yes, my home burnt down about four months ago and

1 everything in it burnt.

2 Q So he sent you a letter saying he knows that you
3 wanted to file one?

4 A Yes, ma'am.

5 Q As far as you know he never did?

6 A No ma'am, I don't reckon he did.

7 Q How many times were you brought up here to the Court
8 House or told to come up here to the Court House while
9 this case was pending?

10 A I made one initial visit in the court and after that
11 two or three times a year they would bring me down to the
12 Public Defender's office. And the Solicitor would come in
13 and they would offer me a plea and I would tell them I
14 wasn't guilty of nothing, I wasn't taking a plea. I would
15 go back home, I would miss a day at work.

16 Q So that went on for almost seven years?

17 A Yes, ma'am.

18 Q That you would come in here two to three times a
19 year?

20 A A couple of times a year, two or three.

21 Q So like twenty times at least?

22 A Ten or fifteen at the most, you know.

23 Q Okay.

24 A At least ten or fifteen times.

25 Q Okay. And you, so you ended up going to SCDC for a

1 different charge. When did you end up in SCDC?

2 A I was in SCDC in 2011 and '12 and that is when I read
3 about a fast, a speedy trial motion that I could ask for.
4 Because I was willing to come out and be productive, I
5 didn't want nothing over my head when I come out. And so
6 I wrote him and ask him and that is when he wrote me the
7 letter back acknowledging that he had got the letter and
8 would file the motion for me.

9 Q So how many times did they bring you from SCDC over
10 here to try to get these charges taken care of?

11 A This, just the time I come up here and plead guilty.
12 This time was the only time that I come up from SCDC.

13 Q So you went to SCDC around 2012?

14 A Uh-huh.

15 Q And they only brought you four years later to come up
16 here about these charges?

17 A No. I was in R&E when they brought me up this time.

18 Q Okay. Did Mr. Howe or Mr. Adducci ever go see you in
19 SCDC?

20 A No, ma'am.

21 Q So tell me about the case against your brother?

22 A I went down there to visit him one day and they was
23 out in the building, they raced go-carts. So they were
24 out in the building working on the motors and had them
25 running. And I had my son with me, he has got a son but

1 his son was gone at the time. It was loud and all and a
2 lot fumes so I told them I was going to go in and play on
3 the computer. And he told me to go ahead. So me and
4 Justin went in and Justin was like seven I think then,
5 seven or eight. He went in there and got on the TV, put
6 in a movie or whatever. I went in there and was playing
7 Big Jeweled, it was pretty popular then, on the computer.

8 Q So was this like a computer with a big monitor on a
9 desk?

10 A Yeah.

11 Q Okay.

12 A And the next thing I know the police was in the room
13 and Joey done come in but the police was in the room
14 hollering at me to get my hands up. They must have
15 hollered at me three or four times. I was into the game
16 and didn't really realize they was in there. But when I
17 turned around they had the guns pointed at me, kind of ill
18 that I hadn't already responded. So I come up with my
19 hands up or whatever and that was it.

20 Q And so what, you got arrested for what?

21 A For everything that my brother had possession of, I
22 just happened to be in the room with him and they charged
23 me with everything they charged him with first, I think.

24 Q What was the stuff?

25 A Trafficking which reads in the law, more than 10 less

1 then 28. I don't know exactly what he had.

2 Q What was the drug though?

3 A Meth I suppose, I think it was meth is what they
4 wrote down.

5 Q So while your case is pending for seven years what
6 did your brother, Joel, tell people?

7 A I got a letter where he had sent, it is notarized and
8 all. He had told the Courts that he took responsibility
9 for everything, that I was just down there visiting, that
10 I had nothing to do with anything there on the premises.
11 I had no domain or no control.

12 Q I am going to show you this, can you tell me what
13 that is?

14 A That is a letter with the date of January the 18th of
15 2011 that Joe had notarized and sent to my lawyers. And I
16 think I actually given them one that he is claiming
17 responsibility to it and that the charges had been dropped
18 on my brother, Greg, that was down there and one of his
19 buddy's, Junior. And that they couldn't understand why
20 they hadn't dropped the charges on me and that I was
21 innocent of all activity that day.

22 Q And this is a letter that was sent to your attorney?

23 A Yes, ma'am.

24 Q That you got a copy of?

25 A Yes, ma'am.

1 MS. MCMAHAN: Your Honor, at this time the Applicant
2 would move to have this entered as Exhibit 1.

3 THE COURT: Any objection?

4 MR. HUNTER: No objection.

5 THE COURT: All right, Applicant's exhibit number 1
6 will be admitted without objection.

7 (Whereupon, Applicant's Exhibit 1 was admitted into
8 evidence.)

9 Q So your brother ended up pleading guilty to these
10 charges too, didn't he?

11 A Yes, ma'am.

12 Q What kind of sentence did he get?

13 A He got, I think it was 18 months.

14 Q And what kind of charge and sentence did you get?

15 A Five years.

16 Q Did you ever talk about that with Mr. Howe?

17 A No. After, the 18 months part, Chip wasn't my lawyer
18 no more when I went up this time. The only time I would
19 talk to Chip is when they would send me notice in the mail
20 and I would go down there and the Solicitor would come in
21 and they would offer me a plea. And I would tell them I
22 didn't want no plea, I want a trial, I wasn't guilty of
23 anything.

24 Q So when your brother wrote the letter, was Chip
25 representing you then?

1 A Yes, ma'am.

2 Q So did you and Chip ever sit and have a conversation
3 about the letter?

4 A No, ma'am. Every time I would come down there it was
5 just basically the same thing, they would ask me if I
6 wanted, offer me a plea of a lessor charge.

7 Q Did he ever talk about you just being there doesn't
8 mean that you are guilty of owning all of those drugs?

9 A No, ma'am. I didn't find that out until I got to
10 looking myself on the computer.

11 Q What did you and Mr. Howe talk about?

12 A Basically even my other brother, I had told him that
13 I was just down there visiting, that is before they
14 dropped the ones on Greg, not Joey. Greg was down there
15 too at the time. Really we didn't talk about nothing,
16 they would just offer me a plea and I would tell them I
17 wasn't taking it.

18 Q So why did you ultimately decide to plead guilty?

19 A Well, when I went up, I just got tired of it hanging
20 over me. And when I come up this time with Mr. Adducci,
21 got me to thinking, he sat a pen out there and said kind
22 of like whose is it. I was like, well, it wasn't mine. I
23 reckon he was trying to do the hands of one the hands of
24 all thing or something. He told me that he could get it
25 dropped to a lessor charge, possession with intent but

1 that I would have to tell the Judge I was guilty of this.
2 He said if you take the, you can't go up there and tell
3 him that you are not guilty, that you have to tell him
4 that you are guilty. So I reckon he basically advised me
5 to commit perjury on the stand I reckon.

6 Q So, how many times have you met with Mr. Adducci?

7 A That was the first time, I didn't even know, I was
8 expected to see Mr. Howe.

9 Q So that was the only time you had ever met Mr.
10 Adducci?

11 A Yes, ma'am.

12 Q And did Mr. Adducci ever tell you that they could ask
13 for a speedy trial on these charges and that you didn't
14 have to plead guilty that day?

15 A No, ma'am. They just advised me, offered me this
16 plea. I was just tired of it being over my head and he
17 told me we could go with PWID or possession with intent to
18 distribute. But he said I would have to tell the Judge I
19 am guilty. And he said you can't go in there taking this
20 plea and tell him that you are not guilty.

21 Q Did he ever, did you tell him what your brother had
22 gotten as a sentence?

23 A No, I didn't see where, I didn't know nothing about
24 any kind of guidelines. I didn't really see, I don't know
25 nothing about the law really, what it comes out to.

1 Q But you knew that your brother had probably gotten 18
2 years by this time, right?

3 A 18 months.

4 Q 18 months, I am sorry, that is a significant
5 difference.

6 A I really wasn't sure, I think I just read that on
7 some paperwork here recently I had been going through. I
8 think it might have been in that letter right there where
9 it says he got 18 months for it or something. But I ain't
10 sure.

11 Q Did he ever talk about anything he could present on
12 your behalf or mitigation for sentencing to try to get
13 your sentence less lower?

14 A No, ma'am.

15 Q What did you guys talk about other than what you have
16 already told us, anything else?

17 A Nothing. He just told me that, I could plead to a
18 lesser charge but if I took a plea I couldn't go in there
19 telling the Judge I wasn't guilty, that I had to tell the
20 Judge that I was guilty of this.

21 Q So you were just really tired of this pending for so
22 long?

23 A Yes, ma'am.

24 Q But you had wanted a trial all the way up until this
25 point?

1 A Yes, ma'am. I was not guilty, I had nothing on me, I
2 didn't even know the police was in the room. They was all
3 getting ready to leave and they were all working out there
4 on a motor. Like I say, I went in of having a young son
5 with me to get away from the smell of the fumes and all.

6 Q Did anybody tell you you couldn't have a jury trial?

7 A Well, he was just kind of was like, on the attitude,
8 what makes you think they are going to give you one now,
9 you know.

10 Q Who was that?

11 A Adducci.

12 Q Okay. Did Mr. Adducci know about that letter from
13 Joel?

14 A No, ma'am. I had just, my family sent it back to me.
15 I had forgot about it myself and they sent it to me when I
16 told them I was coming up for a PCR.

17 Q And had you forgotten about that letter at that
18 point?

19 A Yes, because I don't know that much about it. And I
20 was thinking the fact I had nothing on me was evidence
21 enough that I wasn't guilty of trafficking. So I had sent
22 it at the, I never thought nothing else about it. I
23 thought the case would be dropped way before now.

24 Q You said you thought it would be dropped because it
25 was pending for so long?

1 A Well, I wasn't guilty of nothing and I thought it
2 would be dismissed really.

3 Q Did Mr. Howe ever tell you that he tried to talk to
4 the Solicitor to get it dismissed?

5 A Not, when I was down there they just always offered
6 me a plea.

7 Q Were the prior plea offers consistent with what you
8 plead to, were they about the same?

9 A I really don't even know because I really wasn't even
10 wanted to hear that. I just told them I wouldn't plea to
11 nothing, that I wasn't guilty.

12 Q So any time the Solicitor came in and said, hey, we
13 are going to offer you this. You are like, no, I am not.

14 A Yes, ma'am.

15 Q Okay. Is there anything else that you want to tell
16 the Court today that you want them to know?

17 A I was told by Mr. Adducci that I had to tell the
18 Judge I was guilty, that I couldn't take this plea and not
19 come up here and say that I wasn't. I didn't have no
20 knowledge of anything my brother had in his pockets or
21 anything. I was down there to visit, go down there every
22 now and again. We have got children who are about the
23 same age. Like I say, I was in the room by myself. The
24 last thing I had knowed, when the police got my attention
25 with the guns drawn Joe was already over there, it is a

1 pretty big room, I was in the corner playing that Big
2 Jewel game.

3 Q So you didn't have any idea, while you were sitting
4 there at the computer, that Joel was doing, what he was
5 doing in that room?

6 A No, I reckon, they was getting ready to go somewhere
7 I reckon.

8 Q Did you ever discuss that with Mr. Adducci?

9 A No, ma'am. He just offered me or told me that he had
10 a plea, get like that.

11 Q Did he say you had to plea that day to take that
12 offer?

13 A No, he didn't really say I had to. He just said,
14 basically it was like, well, they wasn't going to give you
15 no trial, you ain't had one at this point. But we can get
16 it dropped to a lessor charge but you can't go in there
17 saying that you are not guilty. You have to tell the
18 Judge that you are guilty. So that is, under his advise,
19 that is what I done.

20 Q And so you told the Judge you were guilty just, based
21 on what Mr. Adducci told you?

22 A Yeah, they had stopped it at one time because the
23 Judge is asking me what was I guilty of. And I said,
24 well, I reckon I am guilty of how much I had on me. I
25 said, I reckon I had more then 10 less then 28. Because

1 that is what I read in the lawbooks trafficking was. When
2 in all actuality possession with intent is less than that
3 and they had to stop, they stopped the Court for a minute
4 and had a little conference to straighten everything out
5 because I wasn't suppose to say that I had 10 or more or
6 something like that I reckon.

7 Q So, did Mr. Adducci sit and talk to you about what a
8 lessor included offenses were, that you were pleading to a
9 lower offense?

10 A No, ma'am. I just was ready to get it, just tired of
11 it being on me, ready to get it behind me.

12 Q Anything else you want to tell the Court today?

13 A I am innocent of these charges is all.

14 Q Answer anything Mr. Hunter ask you.

15 A All right.

16 THE COURT: Mr. Hunter.

17 MR. HUNTER: I don't have any questions for this
18 witness.

19 THE COURT: Thank you, Mr. Bridges, you may step
20 down.

21 MR. BRIDGES: I can step down?

22 THE COURT: Yes, sir.

23 MR. BRIDGES: Okay, thank you.

24 MS. MCMAHAN: Your Honor, the Applicant rests.

25 THE COURT: Mr. Hunter.

1 MR. HUNTER: The State would call Mr. Chip Howe.

2 CHIP HOWE, being
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 By Mr. Hunter:

6 Q Good morning, please state your name for the record?

7 A Claude H. Howe, III.

8 Q Can you explain how you became involved in this case?

9 A In '09 I was working with the Public Defender's
10 office, I had a full-time case load and our office got
11 appointed to represent Mr. Bridges and I took his case.

12 Q And you said that was in 2009?

13 A Correct.

14 Q Can you remember, I guess your initial meeting with
15 him?

16 A Met with him, got basic information. He told me his
17 part of it, that he was sitting at the computer and was
18 not involved in the actual or constructive possession of
19 the meth that was found. And I think it was pursuant to a
20 search warrant where they were looking for stolen items I
21 think in this house. And he gave me his side of it and
22 told me what happened. I think he was in jail at the
23 time, I am not sure. He was in jail and then he got out.
24 At some point and time later on he was in SCDC and at some
25 point and time he got back out again. I couldn't locate

1 him for a while and that kind of went on until actually I
2 got off the case. When I got rid of my active case load
3 and I want to say that was in, well that was in July of
4 2015. And then there was probably a transition period
5 before Mr. Adducci got Mr. Bridges' case. I am thinking,
6 I don't, because there were a number of cases that he was
7 taking over and other folks in the office.

8 Q Okay. Did you receive the discovery from the State?

9 A Yes.

10 Q Did you go over that discovery with him?

11 A I am sure we talked about that a number of times and
12 what they had, it was a search warrant and other items
13 like that. We talked, I recall him coming to the Public
14 Defender office sometime, I don't recall anything about
15 him, me having the Solicitor over there making an offer.
16 I usually shied away from having those type meetings when
17 the Solicitor gets to sit there with my client and make
18 some kind of offer. I didn't like to do that.

19 Q Okay. Now, I guess you represented him for many
20 years. Please explain what was taking so long in this
21 case?

22 A What was taking so long, they had a huge backlog
23 because they came in and they were, the old administration
24 was going out, the new administration came in and it,
25 everything kind of almost came to a halt as far as moving

1 cases. Tremendous backlog as the old Solicitor went out
2 and the new one came in and it was a mess.

3 Q I believe he mentioned a speedy trial motion?

4 A He did.

5 Q Did y'all discuss that?

6 A He did. I wrote him and told him I acknowledged
7 that. I can't find if I ever filed one, if it is not on
8 file then I didn't do it. And I can't really offer an
9 explanation why other than, I doubt it would have been
10 considered very serious, considered very seriously back
11 then. That was just the way it was with the backlog.

12 Q So did you engage in plea negotiations with the
13 Solicitor's office?

14 A The initial, there was no offer, it was just a plea
15 to a trafficking in meth. Later on, later on there was
16 some discussion of a substantial sentence, something like
17 six years, probation. But I don't recall a bunch of
18 different offers. Again, the State was not buying our
19 position that he was not involved, they were still taking
20 the position that he was involved. I think there were,
21 either previous to this or later on Philip caught some
22 similar type charges if I am not mistake. I don't
23 remember what they were and they thought he was involved
24 with other family members in this. But no, I don't think
25 I ever even got a five year offer while I was involved.

1 Q And could you just briefly go over the, I guess what
2 the State alleged happened?

3 A They were executing a search warrant and they came in
4 and found meth and they charged everybody that was in the
5 household, all of the adults that were in the house, to
6 the best of my knowledge. So they would have been going
7 under a constructive possession theory, he was in a house
8 that, you know, they would have been arguing that he was
9 in a house that he is familiar with. That would have been
10 their argument. His defense would have been, I knew
11 nothing about it. And that is kind of where it was.

12 MR. HUNTER: May I approach the witness with the
13 exhibit?

14 THE COURT: Yes, sir.

15 Q Let me show you what is marked as Applicant's exhibit
16 1, do you recognize that, did you ever see that?

17 A I don't recall ever seeing this and it is not in our
18 file.

19 Q It is not in your file?

20 A No, I don't believe it is. I heard testimony about
21 that but it is not in our file. And it would seem to me
22 if it had been presented to me it would be in the file, to
23 be honest with you.

24 Q Okay. And so did he ever tell you, did Mr. Bridges
25 ever tell you that his brother essentially accepted

1 responsibility for everything?

2 A I don't recall. He certainly told me that he was
3 taking the position that he was not guilty of this and had
4 nothing to do with it. I don't know that he specifically,
5 don't recall he specifically said that anybody else in
6 there was going to take responsibility. His position was,
7 I don't know anything about it.

8 Q And did you ever follow the disposition of his
9 brother's case?

10 A I don't remember whether I did or not.

11 Q Okay.

12 A I don't know when they, their cases were dismissed.
13 I don't know when that happened.

14 Q Those are all the questions I have for you, thank
15 you.

16 THE COURT: All right, Ms. McMahan.

17 CROSS-EXAMINATION

18 By Ms. McMahan:

19 Q So those time that he was coming in and he was
20 meeting, where he was getting a card to come in?

21 A No, we don't do cards. I am sorry, I didn't mean to
22 interrupt you.

23 Q That's okay. But if you were meeting with him then,
24 if there were any offers would you have told him about
25 those at that time?

1 A If there were offers.

2 Q But you eluded to earlier that there was really no
3 offer, the only one you ever got, the best one was six
4 years that you said?

5 A Something like six years and that was, Ruston Neely
6 was the prosecutor and that was up into 2015 or something
7 like that. And he was prepared to take him to trial on
8 the trafficking.

9 Q And Mr. Bridges was already in SCDC then, is that
10 correct?

11 A You know, some of the time he was, some of the time
12 he wasn't. Because there was some letters in the file
13 when I was writing him trying to get him in. And I went
14 over to probation one time and they told me that he hadn't
15 reported to probation so he could have been in, could not.
16 I guess the SCDC records would reflect that. I know he
17 was in Turbeville for a period of time. That was early
18 on. And then he was out and then at some point and time
19 he went back in but I can't tell you when.

20 Q Would that letter had made a difference in how you
21 would have approached the Solicitor, if you had it?

22 A Yes and no. With them at that time it might have but
23 if I had, I would probably say no. No, they would have
24 probably still taken the position where he was there, he
25 was present, we are taking the trial.

1 Q And this would have been, the old administration
2 Solicitors or the new ones?

3 A That would have been, well, what was the date of the
4 letter?

5 Q May 11th.

6 A I can't remember when old went out and new came in,
7 to be honest with you. I am thinking 2012 is when new
8 came in but I am not sure.

9 Q Do you think it would have made a difference in the
10 new administration given the age of the case?

11 A No, no. The new administration came in, let it be
12 known that we are driving hard bargains, we are going to
13 set examples, had other cases where they attempted to set
14 examples, we don't care if the docket gets clogged, this
15 is what we are going to do. That was the message we
16 received around here.

17 Q And would you have ever sat and discussed with him
18 about the concept of constructive possession or mere
19 presence and all of that?

20 A I would hope that I would have at least talked about
21 that. And I think he basically understood that, you know,
22 you don't have to have it on you. I think Philip was
23 smart enough to understand that. And that is what they
24 were going on because he didn't have anything on him.

25 Q Okay.

1 MS. MCMAHAN: The Court's indulgence. Nothing
2 further, Your Honor.

3 MR. HUNTER: Nothing else for this witness.

4 THE COURT: Any objection to this witness being
5 excused?

6 MR. HUNTER: No, Your Honor.

7 MS. MCMAHAN: No.

8 THE COURT: You are excused, thank you, sir.

9 MR. HUNTER: The State would call Mr. Thomas Adducci.
10 THOMAS ADDUCCI, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Hunter:

14 Q Please state your name for the record?

15 A Thomas Adducci.

16 Q And where are you currently employed?

17 A I am currently employed with the Greenville Public
18 Defender's office.

19 Q And please explain how you became involved in this
20 case?

21 A So prior to working in Greenwood I was working in the
22 Eighth Circuit also in Laurens, I was working in
23 Greenwood, also Laurens. I transferred here to Laurens in
24 2015 and inherited this case from Mr. Howe.

25 Q When exactly did you inherit this case, did you say?

1 A It was, I would say July or August of '15.

2 Q Because he represented him for about a year?

3 A That's correct.

4 Q Okay. Can you just explain, when you inherited this
5 case, did you inherit his whole file and discovery?

6 A Yes, I just took the entire file itself. It was in
7 the position, I believe in February of 2015 Mr. Bridges
8 had failed to appear for roll call. So he had a bench
9 warrant out for his arrest based on this case at that
10 point. I mean, we had not had contact with him.

11 Q So is that when you first met him, is that what you
12 are saying?

13 A No. I inherited the case, I reviewed the file. At
14 that time, because of his previous failure to appear for a
15 roll call date here in Laurens there was a bench warrant
16 out for him.

17 Q Okay.

18 A And our office had not had contact with him in some
19 time.

20 Q Do you know why, did they ever explain why there was
21 no contact with him at some time?

22 A It was my understanding our office was unable to get
23 in contact with him.

24 Q So when did you first contact him?

25 A So my first note on this case was September 29th of

1 '16. I got a phone call from a Gregory, I believe it is
2 Mr. Bridges brother, indicating that he was in the
3 Greenville Detention Center on a violation of probation
4 and that he had a hold on him out of Laurens. And he
5 wanted to get this cleared up. So that was the first
6 contact I had with anybody regarding this case. And then
7 I emailed the prosecutor's office.

8 Q What happened after that?

9 A So I emailed the prosecutor's office and I can read
10 you the email. It says, I emailed Warren Mowry. He was
11 the Deputy Solicitor here in this County. The person who
12 was the Solicitor of record, Ruston Neely, I believe at
13 that time had left and I did not know who was reassigned
14 that case. So I emailed Warren. Just said, hey, this is
15 an old drug case from 2009. It looks like he failed to
16 appear for roll call back in February of 2015. Just got a
17 call from the family stating that he is in, currently in
18 jail in Greenville for a violation of probation warrant.
19 The family told me he has got a hold out of Laurens
20 because of his FTA. Looked over discovery, here's what
21 happened, please execute a search warrant at the
22 Defendant's brother's house, Joel. Joel and Philip are in
23 the bedroom together, Joel has meth in front of him, it
24 appears to be separating it into smaller baggies. Looks
25 like my guy just happened to be there sitting in front of

1 the computer when Joel was packaging some meth. I wrote
2 that I believe that Joel received a sentence of 20
3 suspended to 6 active. But that could be incorrect, I
4 don't know, followed by probation. I said, do you think
5 we can just dismiss this case, it is from 2009. And that
6 was September 29th of '16.

7 Q And what happened as a result of that email?

8 A They did not offer to dismiss the case but they
9 offered to, this used to be one of Ruston's, can we go
10 with conspiracy concurrent with a violation of probation?
11 That was October 5th, it looks like I received that email.
12 The next note I have is November 29th, a note from our
13 Administrative Assistant. Just notes that client is
14 currently at Kirkland serving a sentence out of Greenville
15 County. Can he possibly be brought over for court this
16 term to have his sentence ran concurrent. That was in,
17 probably a note to me from my Secretary. I then looked up
18 his SCDC records, noted his projected release date was
19 July 4th of 2019. I wrote a note to myself, have him
20 brought over, see if we can get him concurrent time.

21 Q Okay. So all of these discussions you had, did you
22 relay that information to him?

23 A Well, he was in SCDC. We had him transported to
24 Laurens County on, it looks like December 13th of '16. At
25 that point he was in the back, we reviewed discovery, we

1 reviewed his options. With all of my clients I go over
2 all of their jury trial rights, I have this whole spill
3 that I could probably do in my sleep. And he decided to
4 plead guilty to possession with intent to distribute first
5 offense. The sentence was five years and it was backdated
6 to June 24th of '16. That was when his start date for
7 his, the sentence that he was serving in SCDC was so we
8 wanted to make sure that he got credit for all of that.
9 Basically the idea behind it would be that it would not
10 extend his stay at SCDC.

11 Q So that was the, I guess what you and the Solicitor
12 come up with?

13 A Yes.

14 Q So can you explain that again, that it was backdated
15 to that Greenville charge, for the SCDC stay, coming from
16 the Greenville charge?

17 A Yes. I believe it was that charge out of Greenville
18 that had the June 24th of '16 start date. So we wanted to
19 make sure that the sentence that he received in this case
20 would be backdated to that so it wouldn't increase his
21 time.

22 Q So he would essentially be, it is almost as if he was
23 only serving the Greenville charge as far as the time
24 goes, this wouldn't have any effect on the later date?

25 A He would have an additional conviction.

1 Q Right, right.

2 A But we wanted to make sure by structuring it so it is
3 concurrent and backdated and that it would not necessarily
4 extend his stay.

5 Q Okay. And you discussed all of this with him?

6 A Yes.

7 Q Now despite, I guess, your, I would say short
8 representation from when you actually saw him, do you feel
9 like that hindered your ability to represent him?

10 A No.

11 Q So do you think he was fully aware of what was going
12 to happen at that plea hearing?

13 A I believe so, yes.

14 Q Okay. Did you ever have any correspondence from him,
15 any letters, anything of that sort?

16 A So I was reviewing my file and I don't see that, if
17 you are referring to the letter from his brother, about
18 that, I don't have it in my file. And I inherited the
19 file from Mr. Howe. I do recall, because I wrote it in an
20 email that his brother did plead guilty in similar charges
21 stemming from the same events. So I was aware that his
22 brother had already plead. And we may have talked about
23 that when he was back here.

24 Q Okay. So did he, did he ever tell you that his
25 brother would accept responsibility for everything and

1 would testify on his behalf that he didn't have any
2 knowledge?

3 A I don't recall him saying that but he could have. If
4 that did occur I would have told him that, you know, our
5 remedy, if we do not like the offer is to have a jury
6 trial. And if we had a jury trial we could have him, his
7 brother come and testify. But at that point he would be
8 facing a trafficking charges and it is up to twelve people
9 whether they believe our version of events, where he was
10 just sitting at the computer while his brother was
11 packaging this methamphetamine and he had nothing to do
12 with it or would they believe the State's version which
13 was that he was involved in some way.

14 Q And did you ever tell him that he couldn't have a
15 jury trial?

16 A Absolutely not.

17 Q Okay. And do you believe he was well aware of his
18 constitutional rights?

19 A I do.

20 Q Did you ever file any sort of speedy trial motion?

21 A No, I did not.

22 Q Did he ever ask you to?

23 A I don't have any notes that he asked me to. Again,
24 we had no idea where he was until September 29th of 2016,
25 or at least I had no idea of where he was until September

1 29th of 2016 when I received that phone call from his
2 brother, Gregory.

3 Q That is all I have, appreciate your time.

4 A Thank you.

5 THE COURT: Ms. McMahan.

6 CROSS-EXAMINATION

7 By Ms. McMahan:

8 Q At the point that he was brought over from SCDC the
9 day of the plea, was that a day that he had to plead
10 guilty?

11 A No.

12 Q Was that really you just bringing him over to meet
13 with him sort of?

14 A I was bringing him over to meet with him. He had a
15 hold on him out of Laurens. It is my understanding when
16 people are in SCDC and have a hold on them that does
17 prevent them from participating in certain programs or
18 getting certain classifications. So when people are there
19 they generally like to have their cases resolved. I had
20 him brought over to meet with him and if he wanted to
21 resolve his case that was an option. He had an offer of,
22 again, possession with intent to distribute backdated to
23 his start date on his other charges.

24 Q Did he ever tell you he didn't feel like he was
25 guilty, that he was innocent of all of this?

1 A I don't recall exactly what he said. I do recall
2 speaking with him about how his brother had plead guilty.

3 Q So you did talk to him about his brother pleading
4 guilty?

5 A Yes, it was in my notes that his brother had plead
6 guilty. But I don't recall him specifically saying, I am
7 innocent, I did not do this.

8 Q When he was in Greenville Detention Center, did you
9 ever go see him up there?

10 A No, I did not.

11 Q Why is that?

12 A I don't know.

13 Q Was there a possible trial date that had been thrown
14 out by Mr. Mowry or anything?

15 A No, we did not have a trial date set.

16 Q If you had of had that letter at the time that you
17 emailed Mr. Mowry do you think that would have made a
18 difference?

19 A If I had of had it I would have attached to the
20 email. I don't know whether that would have changed their
21 calculus.

22 Q Okay.

23 A I can't speak for that.

24 Q When you were first appointed in 2015 did you ever
25 try to send a letter to any of the addresses that you had

1 on the record for him?

2 A When the case was transported to me we did not send a
3 follow-up letter.

4 Q And it was in 2015, right?

5 A I believe so, yes.

6 Q So you, but you did not try to send a letter to try
7 to get him in, you just knew he had a bench warrant?

8 A Yes. We didn't send a letter.

9 MS. MCMAHAN: Nothing further, Your Honor.

10 MR. HUNTER: Nothing else for this witness.

11 THE COURT: Any objection for this witness being
12 excused?

13 MR. BRIDGES: We need him for one more case.

14 THE COURT: Thank you.

15 MR. HUNTER: There is nothing else from the State on
16 this matter.

17 THE COURT: All right, anything further from the
18 Applicant?

19 MS. MCMAHAN: Nothing further from the Applicant.

20 THE COURT: Okay, I will deem the case submitted, I
21 am going to take some time to read everything, I will take
22 it under advisement.

23 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

24

25

STATE OF SOUTH CAROLINA)
 COUNTY OF LAURENS)
)
 Philip Andrew Bridges,)
 SCDC# 370294,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 OF THE EIGHTH JUDICIAL CIRCUIT

2017-CP-30-219

ORDER OF DISMISSAL

LYNN W. LANCASTER
 2017 NOV 27 2 10 PM
 LAURENS COUNTY
 CLERK OF COURT

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed March 22, 2017. An evidentiary hearing into the matter was convened on Wednesday, October 11, 2017, at the Laurens County Courthouse in Laurens, South Carolina before the Honorable R. Scott Sprouse. Applicant was present at the hearing and represented by Ashley A. McMahan, Esquire. Justin Hunter, Esquire, of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant testified on his own behalf. Chip Howe and Thomas Adducci, Esquires, also testified. This Court also had before it a copy of Applicant's PCR application and amendment, the records of the Laurens County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, Respondent's Return, and the plea transcript.

I. PROCEDURAL HISTORY

Applicant is confined with the South Carolina Department of Corrections pursuant to orders of commitment of the Laurens County Clerk of Court. Applicant was indicted at the July 2009 term of the Laurens County Grand Jury for trafficking methamphetamine (2009-GS-30-825). Applicant was represented by Thomas Adducci, Esquire. On December 1, 2016, Applicant pled guilty before the Honorable Alexander S. Macaulay to the lesser included offense

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 LYNN W. LANCASTER
 LAURENS COUNTY CLERK OF COURT

of PWID methamphetamine. Pursuant to a recommendation, he was sentenced to imprisonment for five years. Applicant's sentence was set to run concurrently to two five-year terms of imprisonment imposed in Greenville County on June 24, 2016 for manufacturing methamphetamine, 2nd offense (2013-GS-23-10011) and possession of methamphetamine, 3rd offense (2013-GS-23-10010) Applicant did not appeal his plea or conviction.

Allegations

In his current application for post-conviction relief, and the amendment filed thereto, Applicant alleges he is being held unlawfully for the following reasons:

1. Ineffective Assistance of Counsel as to Claude H. Howe, III, Esquire:
 - a. "Counsel failed to file a motion for a speedy trial. Applicant's case was pending for approximately seven years."
 - b. "Failed to request the Solicitor to dismiss charges once the charges against Greg Bridges and Junior Woods were dismissed."
 - c. "Counsel failed to present to the Solicitor the letter from the co-defendant wherein the co-defendant admits responsibility for the drugs at the residence."
2. Ineffective Assistance of Counsel as to Thomas J. Adducci, Esquire:
 - a. "Counsel failed to file a motion for a speedy trial since Applicant's case was pending for approximately seven years."
 - b. "Counsel failed to argue what the co-defendant had gotten as a sentence in Applicant's sentencing phase of his guilty plea, co-defendant has taken responsibility for the crime, and the Applicant was merely present at the residence at the time. See State v. Dennis, 321 SC 413, 486 S.E.2d 674 (Ct App 1996)."
 - c. "Counsel failed to present to the Solicitor the letter from the co-defendant wherein the co-defendant admits responsibility for the drugs at the residence."
 - d. "Counsel told Applicant he could not have a jury trial. But for counsel's statement that Applicant could not have a trial, Applicant would not have pled guilty and would have insisted on going to trial."

II. APPLICABLE LAW

In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the

application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel’s performance was deficient. Id. Under this prong, courts measure an attorney’s performance by its “reasonableness under prevailing professional norms.” Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel’s alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject

convictions, the plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief and amendment, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

Ineffective Assistance of Counsel as to Claude H. Howe, III, Esquire

Counsel failed to file a motion for a speedy trial. Applicant's case was pending for approximately seven years.

Applicant alleged that Mr. Howe was ineffective for failing to file a motion for a speedy trial. He testified that he asked Mr. Howe to file this motion in 2011 but it was never filed. Applicant testified that he was incarcerated in SCDC on another charge in 2011 and found out about filing a speedy trial motion while in prison. Mr. Howe testified that he represented Applicant from 2009 until July 2015. He testified that he was not sure if he ever filed a speedy trial motion. Mr. Howe testified that Applicant's case took so long to come to fruition because of a backlog of cases and a change in administration at the Solicitor's Office, and because he could not locate Applicant for a some time.

This Court finds that Applicant has failed to carry his burden of proving that Mr. Howe was ineffective for failing to file a motion for a speedy trial. This Court finds that Mr. Howe lacked the opportunity to communicate with Applicant about his case through no fault of Mr. Howe. Mr. Howe provided credible testimony that he could not locate Applicant for some time and Applicant was in and out of SCDC during his representation. This Court finds that it was not unreasonable for Mr. Howe to not file a speedy trial motion when he could not locate his client. Additionally, Applicant's SCDC records indicate that he was incarcerated from August 15, 2011 to June 1, 2012, which contributed to Mr. Howe's inability to move forward with Applicant's case.

This Court further finds that Applicant has failed to show that he was prejudiced by Mr. Howe's failure to file a motion for a speedy trial. He has failed to show resulting prejudice to his case and has failed to show that a speedy trial motion would have been successful had it been filed. Accordingly, this allegation must be dismissed.

Failed to request the Solicitor to dismiss charges once the charges against Greg Bridges and Junior Woods were dismissed.

Applicant alleged that Mr. Howe was ineffective for failing to ask that his charges be dismissed once the charges against his brother, Greg Bridges, and Junior Woods were dismissed. He testified that he was at Greg Bridges' house playing a computer game when the police came in and found a methamphetamine operation and charged him and his brother with trafficking methamphetamine. Applicant also testified that his brother pled guilty and received an eighteen month sentence. Mr. Howe testified that he was not aware of the disposition of Applicant's brother's case and could not recall if Applicant's brother took all responsibility for the drugs.

This Court finds that Applicant has failed to show that Mr. Howe was deficient for failing to request that Applicant's charges be dismissed. This Court finds that Mr. Howe did not act unreasonably in failing to make a motion as he was not aware of the disposition of other defendants' cases. This Court would also note that Applicant's version of events contradicts the State's version of events that Applicant agreed with during his plea hearing.

This Court further finds that Applicant has failed to show that he was prejudiced by Mr. Howe's actions as he has failed to provide any evidence that would show that a motion to dismiss his charges would have been successful. Accordingly, this allegation must be dismissed.

Counsel failed to present to the Solicitor the letter from the co-defendant wherein the co-defendant admits responsibility for the drugs at the residence.

Applicant alleged Mr. Howe was ineffective for failing to present a letter from Greg Bridges where Greg admitted responsibility for the drugs found at the house. He testified that

this letter was written on January 18, 2011. Applicant did testify however that he did not discuss this letter with Mr. Howe. Mr. Howe testified that he never saw this letter and it was not in his file. He testified that he could not recall if Applicant's brother took all responsibility for the drugs. He further testified that he did not believe the letter would make a difference because the solicitor would have still taken Applicant to trial on the trafficking methamphetamine charge.

This Court finds that Applicant has failed to meet his burden of showing that Mr. Howe was deficient for failing to show the solicitor a letter written by his brother wherein his brother took responsibility for the drugs at his house. This Court finds, based on Mr. Howe's and Applicant's testimony, that there is no credible evidence that Mr. Howe saw this letter or that Applicant discussed it with him. Thus Mr. Howe cannot be deficient for failing to introduce evidence that he did not know existed.

Furthermore, this Court finds that Applicant has failed to show that he was prejudiced by Mr. Howe's actions, as he has failed to show that the outcome would have been different had Mr. Howe presented this letter to the solicitor. This Court would also note that Applicant did not mention this letter during the plea hearing. This Court finds that there is no evidence that the State would have dropped Applicant's charges or that the letter would have an impact on his sentencing. Accordingly, this allegation must be dismissed.

Ineffective Assistance of Counsel as to Thomas J. Adducci, Esquire

Counsel failed to file a motion for a speedy trial since Applicant's case was pending for approximately seven years.

Applicant alleged that Mr. Adducci was ineffective for failing to file a motion for a speedy trial. He testified that he asked his counsel to file this motion but it was never filed. Applicant testified that he was incarcerated in SCDC on another charge in 2011 and found out about filing a speedy trial motion while in prison.

Mr. Adducci testified that he began representing Applicant in 2015. He testified that Applicant failed to appear for roll call in February 2015 and a bench warrant was issued for his arrest. Mr. Adducci testified that he had no contact with Applicant and was unable to locate him for some time. He testified that he first made any sort of contact with someone associated with Applicant was when Applicant's brother called him on September 29, 2016. He testified that Applicant was arrested in Greenville and the Greenville Detention Center saw that there was a hold in Laurens County. Mr. Adducci testified that he did not file a speedy trial motion because he had no idea where Applicant was until September 29, 2016, and the plea took place three months later.

This Court finds that Applicant has failed to prove that Mr. Adducci was deficient for failing to file a motion for a speedy trial. This Court finds Mr. Adducci provided credible testimony that he did not file a speedy trial motion because he was unable to locate Applicant and was unsuccessful in making contact with Applicant or his family members during most of his representation until Applicant was arrested in Greenville in September 2016. This Court finds that it was not unreasonable for Mr. Adducci to not file a speedy trial motion when he was unable to locate his client, despite his efforts. This Court finds that Mr. Adducci acted reasonably in attempting to locate Applicant was not deficient for failing to file a speedy trial motion.

This Court further finds that Applicant has failed to show that he was prejudiced by Mr. Adducci's failure to file a speedy trial motion. This Court would note that once Mr. Adducci was able to locate Applicant after Applicant's Greenville arrest, he was able to negotiate a plea deal with the State and Applicant pled guilty three months later. Applicant has failed to show that a speedy trial motion would have been successful had it been filed. Accordingly, this allegation must be dismissed.

Counsel failed to argue what the co-defendant had gotten as a sentence in Applicant's sentencing phase of his guilty plea, co-defendant has taken responsibility for the crime, and the Applicant was merely present at the residence at the time.

Applicant alleged that Mr. Adducci was ineffective for failing to argue at Applicant's plea hearing the sentence that his brother received, the fact that his brother took responsibility for the crime, and the fact that Applicant was merely present. He testified that he did not discuss with Mr. Adducci what sentence his brother received for pleading guilty, and testified that he only recently realized what sentence his brother received when he read his brother's letter. Applicant testified that he did not discuss anything with Mr. Adducci prior to pleading guilty and did not discuss what would be offered in mitigation.

Mr. Adducci testified that he could not recall if Applicant's brother took all responsibility for the crime. He testified that he never saw a letter from Applicant's brother that indicated he took responsibility. He testified that he knew Applicant's brother pled guilty.

This Court finds that Applicant has failed to meet his burden of proving that Mr. Adducci was deficient for failing to argue to the plea court what sentence Applicant's brother had received, that his brother had taken responsibility for the crime, and that Applicant was merely present at the scene. "Strickland does not require counsel investigate every conceivable line of mitigating evidence or require the submission of such evidence in every case." Wiggins v. Smith, 539 U.S. 510, 533 (2003). This Court finds that Mr. Adducci provided credible testimony that he never saw a letter from Applicant's brother that indicated the brother took responsibility for the crime. This Court finds that there is no evidence that Applicant's sentence was affected by Mr. Adducci's failure to raise these issues in mitigation. This Court would also note that Applicant failed to make any of this information known to the court when he addressed the plea court during mitigation and when he agreed with the State's version of the facts that he was not merely

present during the crime. This Court finds Mr. Adducci's actions were not unreasonable, especially considering he was able to negotiate a five-year plea, backdated to the start date of an unrelated conviction. Applicant has failed to show that Mr. Adducci's actions during mitigation were deficient.

This Court further finds that Applicant has failed to meet his burden of proving that he was prejudiced by Mr. Adducci's failure to raise certain issues in mitigation. Applicant did not provide ample evidence that he would have proceeded to trial but for Mr. Adducci's failure to argue to the plea court what sentence Applicant's brother had received, that his brother had taken responsibility for the crime, and that Applicant was merely present at the scene. Accordingly, this allegation must be dismissed.

Counsel failed to present to the Solicitor the letter from the co-defendant wherein the co-defendant admits responsibility for the drugs at the residence.

Applicant alleged Mr. Adducci was ineffective for failing to present a letter from Greg Bridges where Greg admits responsibility for the drugs found at the house. He testified that this letter was written on January 18, 2011. Applicant testified that Mr. Adducci did not know about this letter.

Mr. Adducci testified that he could not recall if Applicant's brother took all responsibility for the crime. He testified that he never saw a letter from Applicant's brother that indicated he took responsibility. He testified that he knew Applicant's brother pled guilty. Mr. Adducci testified that he was not sure if any letter would have caused the State to change their position. Mr. Adducci further testified that they discussed the fact that Applicant's brother pled guilty, but he could not recall Applicant ever telling him that he was innocent of the charges.

This Court finds that Applicant has failed to meet his burden of proving that Mr. Adducci was deficient for failing to present the solicitor with a letter from Applicant's brother wherein his

brother admitted responsibility for the crime. This Court finds that Mr. Adducci provided credible testimony that he never saw a letter from Applicant's brother. This Court finds that Mr. Adducci is not deficient for not presenting a letter that he had never seen before.

Furthermore, this Court finds that Applicant has failed to show that he was prejudiced by Mr. Adducci's actions, as he has failed to show that the outcome would have been different had Mr. Adducci presented this letter to the solicitor. This Court would also note that Applicant did not mention this letter during the plea hearing, which corroborates Mr. Adducci's assertion that he had no knowledge of the letter. This Court finds that there is no evidence that the State would have dropped Applicant's charges or that the letter would have an impact on his sentencing. Accordingly, this allegation must be dismissed.

Counsel told Applicant he could not have a jury trial. But for counsel's statement that Applicant could not have a trial, Applicant would not have pled guilty and would have insisted on going to trial

Applicant alleged that Mr. Adducci was ineffective for telling him that he could not have a jury trial. He alleged that he would not have pled guilty but would have insisted on going to trial had Mr. Adducci not told him otherwise. Applicant testified that he pled guilty because he was tired of having this outstanding charge hand over his head and Mr. Adducci told him that he could get the State to drop the charge down from trafficking. He testified that they discussed the theory of the hand of one is the hand of all. Applicant testified that he was not guilty and thought the charge would be dismissed.

Mr. Adducci testified that he told Applicant that he could have a jury trial but it would be on his indicted offense for trafficking methamphetamine and not the lesser included offense of PWID methamphetamine to which he was offered to plead guilty. He testified that he asked the State to dismiss the charge, but it would not oblige. He testified that he emailed the assistant solicitor handling the case in October and November 2016 to negotiate a plea deal and ultimately

the assistant solicitor agreed to a recommended sentence that would run concurrent to the SCDC sentence Applicant was already serving from Greenville. Mr. Adducci testified that he asked the solicitor to transport Applicant from SCDC so they could resolve this charge. He testified that Applicant was transported to Laurens County in December and they reviewed the discovery, Applicant's constitutional rights, and the State's plea offer. He testified that Applicant decided to plead guilty to a recommended five-year sentence that would be backdated to the start of Applicant's current SCDC incarceration, and the sentence would not add one day to his current SCDC incarceration. Mr. Adducci testified that Applicant was aware that he did not have to plead guilty that day, but this was an option to clear up the Laurens County hold.

This Court finds that Applicant has failed to meet his burden of proving that Mr. Adducci was deficient for telling him that he could not have a jury trial. This Court finds that Mr. Adducci provided credible testimony that he informed Applicant that he had the right to a jury trial on the indicted offense of trafficking methamphetamine, and not on the lesser included offense to which he was offered to plead guilty. This Court finds that Mr. Adducci also provided credible testimony that he discussed with Applicant his constitutional rights upon his transportation to Laurens County. This Court further finds that the plea judge informed Applicant during the plea hearing that by pleading guilty he was giving up constitutional rights, including the right to a jury trial. See Guilty Plea Transcript, p. 6, ll. 4-19.

This Court further finds that Applicant has failed to prove that he would have gone to trial but for Mr. Adducci's advice that Applicant could not have a jury trial. Applicant raised no concerns during the plea hearing when the plea judge informed him that he had the right to a jury trial. Additionally, although Applicant testified that he pled guilty because Mr. Adducci told him he could not have a jury trial, this Court finds that this testimony is contradicted by Applicant's

additional testimony that he pled guilty because he was tired of having this outstanding charge hand over his head and Mr. Adducci told him that he could get the State to drop the charge down from trafficking. As Applicant has failed to prove that he would have proceeded to trial but for Mr. Adducci's alleged errors, this allegation must be dismissed.

IV. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate either counsels' performances were unreasonable under prevailing professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

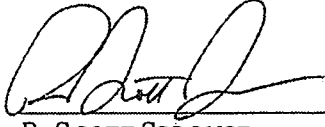
The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The application for Post-Conviction Relief is denied and dismissed with prejudice; and

- 2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 21 day of November, 2017.



R. SCOTT SPROUSE
 Presiding Judge
 Eighth Judicial Circuit

Wallace, South Carolina

A TRUE COPY OF ORIGINAL
 Lynn W. Lancaster
 Laurion County CCCP & GS

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

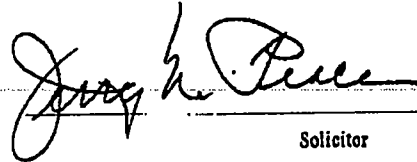
INDICTMENT FOR

**TRAFFICKING IN METHAMPHETAMINE
44-53-0375**

At a Court of General Sessions, convened on the *6th* day of July, 2009 the Grand Jurors of Laurens County present upon their oath:

That Phillip Andrew Bridges, did in Laurens County, state aforesaid, on or about the 5th day of April, 2009 willfully, unlawfully, and knowingly traffic in methamphetamine, to wit: that the said defendant(s) did sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was in actual or constructive possession or did knowingly attempt to become in actual or constructive possession of 10 grams or more of methamphetamine, in violation of Section 44-53-375 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 cases made and provided.


Solicitor

WITNESSES

Judy Stiles
Laurens County Sheriff

WARRANT NUMBER

1997083 *True Bill*

Lisa Swan

Foreman of the Grand Jury

Date: *7/6/09*

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

July Term, 2009

Indictment # 09GS30- *0825*

PTA

THE STATE

vs.

Phillip Andrew Bridges

A.W.

7/28/16

Restored 12/7/16

Reissued 2/2/15

INDICTMENT FOR

TRAFFICKING IN METHAMPHETAMINE
44-53-0375

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

INDICTMENT FOR

**Manufacturing Methamphetamine
44-53-375**

At a Court of General Sessions, convened on the 3rd day of May, 2013, the Grand Jurors of Laurens County present upon their oath:

That Phillip Justin Bridges, in Laurens County, on or about January 26, 2013 willfully, unlawfully and knowingly manufacture or otherwise aid, abet, attempt or conspire to manufacture Methamphetamine, in violation of Section 44-53-375 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 cases made and provided.



Solicitor / Assistant Solicitor

WITNESSES

Steven R. Sweat
Laurens County Sheriff

WARRANT NUMBER

2013A3010200035

Tru Bill
Randal Staveland

Foreman of the Grand Jury

Date: *5-3-13*

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

May Term, 2013
Indictment # 13GS30-0628

THE STATE

7

vs.

Phillip Justin Bridges

INDICTMENT FOR

Manufacturing Methamphetamine
44-53-375

CDR: 3198

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

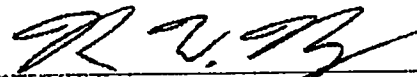
INDICTMENT FOR

Possession with Intent to Distribute
Methamphetamine
44-53-375

At a Court of General Sessions, convened on the 3rd day of May, 2011, the Grand Jurors of Laurens County present upon their oath:

That Phillip Justin Bridges, in Laurens County, on or about January 26, 2013 willfully, unlawfully, and knowingly possess with intent to distribute, dispense, deliver, and/or otherwise aid, abet, attempt, or conspire to possess with the intent to distribute, dispense, or deliver methamphetamine, in violation of the provisions of Section 44-53-375 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 cases made and provided.



Solicitor / Assistant Solicitor

WITNESSES

Steven R. Sweat
Laurens County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

May Term, 2013

Indictment # 13GS30-0630

WARRANT NUMBER

2013A3010200040

THE STATE

vs.

Phillip Justin Bridges

X

True Bill

Randall Shull

Foreman of the Grand Jury

Date: *5-3-13*

INDICTMENT FOR

Possession with Intent to Distribute
Methamphetamine
44-53-375

VERDICT

CDR: 3198

Foreman