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THE STATE OF SOUTH CAROLINA
In the Supreme Court

AUG 09 2018

S.C. SUPREME COURT

Appeal from York County Court of Common Pleas
The Honorable Mark Hayes II, Circuit Court Judge

Appellate Case No. 2018-000883

Jonquay R. McCombs,.....Petitioner,

v.

State of South Carolina,.....Respondent.

APPENDIX

WILLIAM G. YARBOROUGH III

William G. Yarborough, Attorney at Law, LLC
522 North Church Street
Greenville, South Carolina 29601
(864) 331-1612

COUNSEL FOR PETITIONER

HONORABLE ALAN WILSON
SC Attorney General

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Assistant Attorney General

Post Office Box 11549
Columbia, South Carolina 29211

COUNSEL FOR RESPONDENT

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STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

JONQUAY RAKEE MCCOMBS, #342963)

Plaintiff,)

vs.)

STATE OF SOUTH CAROLINA)

Defendant.)

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-46-1608

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

FILED
2018 MAY -3 PM 12:55
CLERK'S OFFICE
YORK COUNTY, SC

Plaintiff's Attorney:

William G. Yarborough, III, Bar No. _____

Address:

522 North Church Street
Greenville, South Carolina 29601

Phone: _____ Fax: _____

E-mail: _____ Other: _____

Defendant's Attorney:

Justin J. Hunter, Bar No. _____

Address:

Post Office Box 11549
Columbia, South Carolina 29211

Phone: _____ Fax: _____

E-mail: _____ Other: _____

☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: _____

Estimated Time Needed: _____ Court Reporter Needed: ☐ YES / ☒ NO

SECTION II: Motion/Order Type

☐ Written motion attached

☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Justin J. Hunter
Signature of Attorney for ☐ Plaintiff / ☒ Defendant

April 18, 2018

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT: \$ _____

☐ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☒ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED - AMOUNT DUE: \$ _____

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2017CP4601608

Jonquay Rakee Mccombs

342903

South Carolina State Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: The Court

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER OF DISMISSAL

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.**E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

S/J. Mark Hayes

2132

4/20/2018

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on **May 3, 2018**, and a copy mailed first class or placed in the appropriate attorney's box on **May 3, 2018**, to attorneys of record or to parties (when appearing pro se) as follows:

William G. Yarborough III 522 North Church Street
Greenville, SC 29601

Megan Harrigan Jameson PO Box 11549 Columbia, SC
29211

Jonquay R. Mccombs Kershaw Correctional Institute, 4848
Goldmine Highway, Kershaw, SC 29067

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter

David Hamilton - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS
OF THE SIXTEENTH JUDICIAL CIRCUIT

Jonquay Rakee McCombs,)
S.C.D.C. No. 342963,)

2017-CP-46-1608

Applicant,)

ORDER OF DISMISSAL

v.)

State of South Carolina,)

Respondent.)
_____)

FILED
2018 MAY -3 PM 12:52
LAWSON
CLERK OF COURT
YORK COUNTY, SC

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed May 31, 2017. An evidentiary hearing into the matter was convened on Thursday, February 1, 2018, at the Moss Justice Center in York, South Carolina before the Honorable J. Mark Hayes, II. Applicant was present at the hearing and represented by William Yarborough, III, Esquire. Justin Hunter, Esquire, of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant testified on his own behalf. Jessica Russo, Esquire, also testified. This Court also had before it a copy of Applicant's PCR application and Response to Motion for a More Definite Statement, the records of the York 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 presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. Applicant was indicted by the July 2016 term of the York County Grand Jury for first degree assault and battery (2016-GS-461942), unlawful carrying of a pistol (2016-GS-46-1943), and possession of crack with intent to distribute (2016-GS-46-1944). Applicant was represented by Jessica Russo, Esquire. Applicant

appeared before the Honorable John C. Hayes, III, on July 15, 2016 and pled guilty as indicted to first degree assault and battery, as indicted to unlawful carrying of a pistol, and to PWID crack second offense as a lesser included offense of PWID crack third offense. Pursuant to a negotiation, he was sentenced to imprisonment for ten years for PWID crack second offense, ten years for first degree assault and battery, and one year for unlawful carrying of a pistol. The sentences were to run concurrently. He did not appeal his plea or sentence.

Allegations

In his current application for post-conviction relief, and the Response to Motion for a More Definite Statement filed thereto, Applicant alleges he is being held unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
2. "Applicant's plea was involuntary and made in ignorance"
3. Counsel was ineffective for failing to adequately investigate and consequently advise Applicant on the availability of relevant defenses or opportunities to suppress evidence, rendering Applicant's guilty plea not knowingly or intelligently made.
 - a. A more thorough review of the discovery would have revealed that grounds existed to challenge the searches of Applicant's vehicle on October 16, 2015 and February 6, 2016. Had Applicant been fully advised on the nature and strength of the State's evidence, as well as the opportunity to suppress the evidence seized from two illegal searches, he would not have pled guilty and instead would have proceeded to trial.
 - b. Applicant learned that another individual housed in the same jail for murder, who looked very much like Applicant, was responsible for the gunshots that led to Applicant's arrest for assault and battery first. Applicant had communicated this to counsel but counsel failed to investigate. Had Applicant known that evidence may have existed to support a third-party defense at trial, he would not have pleaded guilty and instead have proceeded to trial.
4. Counsel failed to spend adequate time with Applicant explaining the nature of the charges, the evidence against him, and the possible penalties, thus rendering Applicant's guilty plea not knowingly or intelligently made.
 - a. At the time of his guilty plea, Applicant did not understand the elements to each charge. Counsel had also failed to thoroughly review all of the State's

evidence with him. Counsel also failed to discuss with Applicant the full range of possible sentences.

- b. Particularly, Counsel had advised Applicant that he would only have to serve three (3) to six and half (6.5) years in prison. Had Applicant known that he would be sentenced to upwards of ten (10) years, he would not have pleaded guilty and instead would have proceeded 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

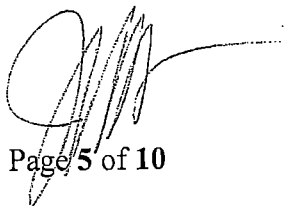
Counsel failed to investigate or challenge search

Applicant alleged Counsel was ineffective for failing to investigate and advise Applicant on the availability of relevant defenses or opportunities to suppress evidence. He alleged a more thorough review of the discovery would have revealed that grounds existed to challenge the searches of Applicant's vehicle on October 16, 2015 and February 6, 2016. Applicant further alleges had he been fully advised on the nature and strength of the State's evidence, as well as the opportunity to suppress the evidence seized from two illegal searches, he would not have pled guilty and instead would have proceeded to trial. Applicant testified Counsel should have filed a suppression motion for the drugs found in Applicant's car because he did not give consent to search and they did not have a warrant.

Counsel testified the officers were investigating 911 hangups and went to Applicant's girlfriend's apartment. She testified the officers said they smelled marijuana coming from her apartment and also saw Applicant's illegally parked car. She testified Applicant did not give

consent to search and the officers said they could get a warrant. She testified Applicant kept talking to the officers and said there were drugs in the car, and ultimately Applicant unlocked the car for the officers and consented to a search. She testified he told officers crack cocaine was in his bag and let officers retrieve the bag. Counsel testified she considered a suppression motion but if she did it would have to be at trial and all plea offers would be off the table. She testified Applicant wanted plea offers. Counsel testified Applicant wanted a plea and he faced a potential life sentence if he had proceeded to trial.

This Court finds Applicant has failed to meet his burden of proving Counsel was ineffective for failing to properly investigate and advise Applicant about the challenge to the search. This Court finds challenging the search at trial would have lost Applicant the ability to plead to the lesser charge and he would have been facing a sentence of life without the possibility of parole if convicted. The transcript before this Court contains no details about the search. All the information related to the search came from witnesses who testified at the present PCR hearing. Based on the testimony at the PCR hearing, this Court most probably would have not granted the motion to suppress. One significant factor was that the Applicant eventually gave his consent for the search. This Court finds Counsel discussed with Applicant his trial rights, the defenses to the search, and the fact that he could only challenge the search at trial. This Court finds Applicant has failed to meet his burden of proving Counsel's advice was deficient or that she did not fully investigate the circumstances around the search. Furthermore, Applicant has failed to meet his burden of proving he would not have pled guilty but would have proceeded to trial but for Counsel's actions. This Court finds Applicant gave no indication he would rather face life without parole at a trial than plead to his ten year negotiated sentence. Accordingly, this allegation must be dismissed.



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Failed to investigate third party guilt

Applicant alleged Counsel was ineffective for failing to investigate a possible third party who admitted to the crime. Applicant alleged he learned that another individual housed in the same jail for murder, who looked very much like Applicant, was responsible for the gunshots that led to Applicant's arrest for assault and battery. Applicant alleged he had communicated this to Counsel but Counsel failed to investigate. Applicant asserted that had he known that evidence may have existed to support a third-party defense at trial, he would not have pleaded guilty and instead have proceeded to trial. Counsel testified Applicant never gave her the name of an alibi witness for the assault and battery case. She testified an eyewitness said Applicant had fired a weapon. She testified she did not recall Applicant saying he was with someone else that night.

This Court finds Applicant has failed to meet his burden of proving Counsel's actions were deficient in this regard. First, Applicant has failed to show exactly who this individual is and how exactly he was involved on the night in question. This Court finds Counsel's testimony to be credible that she did not receive this tip or any alibi witnesses. This Court will not speculate as to what this individual would say had he testified at trial. Furthermore, the record shows the guilty plea was a package deal to clear up all the charges outstanding against Applicant. The plea arrangement dropped the PWID charge from a 3rd offense to a 2nd offense and Applicant avoided a LWOP sentence. Even though he contends Counsel did not interview the alibi witness on the assault and battery charge, even if true, no prejudice has been shown given the terms of the plea deal. The assault and battery charge did not affect the ultimate ten year sentence. The solicitor was not going to go forward with the plea if the assault and battery charge was not included. Applicant has failed to show he would have proceeded to trial but for Counsel's actions in this regard. Accordingly, this allegation must be dismissed.

Involuntary Guilty Plea

Applicant alleges that his plea was given involuntarily. Applicant alleged he did not know the nature of the charges, the evidence against him, or the possible penalties. Applicant alleged Counsel had advised him that he would only have to serve three to six and one-half years in prison. He alleged that had he known that he would be sentenced to upwards of ten years, he would not have pleaded guilty and instead would have proceeded to trial.

Counsel testified she went over the charges, the State's evidence, and Applicant's version of events. She testified she met with him three times and talked on the phone prior to trial. She testified she went over his trial rights and the possible challenge to the evidence. Counsel testified she went over Applicant's plea waiver form with him, which described the rights he was giving up and the consequences of the current charges. She testified she asked the solicitor for a plea of five or eight years but the solicitor declined. She testified the solicitor would not drop the assault and battery charge. She testified Applicant faced a third offense PWID charge before and knew the sentencing range. Counsel further testified she discussed with Applicant the sentencing ranges for each charge and it was ultimately his decision to plead guilty.

This Court finds that Applicant's allegation must be dismissed. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial

admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

"A guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." Jamison v. State, 410 S.C. 456, 467, 765 S.E.2d 123, 129 (2014) (citing State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013); Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). Notably the South Carolina Supreme Court has held "[a] guilty plea represents a break in the chain of events which has preceded it in the criminal process." Id. (citations omitted). "When a criminal defendant has solemnly admitted in open court that he is in fact guilty of the offense with which he is charged, he may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea." Id. (citing Rice, 401 S.C. at 332, 737 S.E.2d at 486).

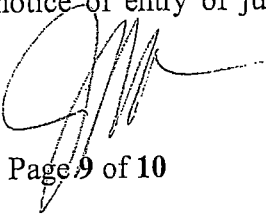
This Court finds, and the record reflects, Applicant was fully advised that he was pleading guilty and therefore waiving any challenges to the evidence against him. The plea waiver form reveals Applicant acknowledged he understood the potential sentences for the charges he was facing, the negotiated plea, his rights, and that he was entering the plea freely and voluntarily. The plea court's thorough colloquy with Applicant demonstrates that he understood the consequences of pleading guilty and the potential sentences he could receive. Applicant advised the plea court that no one had promised him anything in order to get him to plead guilty.

Applicant also advised the plea court that he was pleading guilty freely and voluntarily. The record also reflects that Applicant fully admitted his guilt to the plea court and agreed with the State's version of the facts. Applicant presented no credible evidence at the PCR hearing as to why he should be able to depart from his statements at the plea hearing. This Court finds credible Counsel's testimony regarding his preparation and advice to Applicant prior to the guilty plea. After a full review of the guilty plea transcript, this Court finds the plea judge correctly found Applicant's plea was freely, voluntary, and intelligently made. This Court also finds that Applicant has presented no evidence that he did not understand the plea proceeding or that his plea was not freely, voluntarily, or intelligently made. This Court finds Applicant has failed to meet his burden of proving he was promised a plea of three to six and one-half years. The plea waiver form listed out the potential sentences he faced and showed the plea was for a negotiated ten year sentence. During the plea hearing, the plea judge told him the potential sentences, he acknowledged he understood the negotiation, and he acknowledged no one had promised him anything to plead guilty. Accordingly, 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



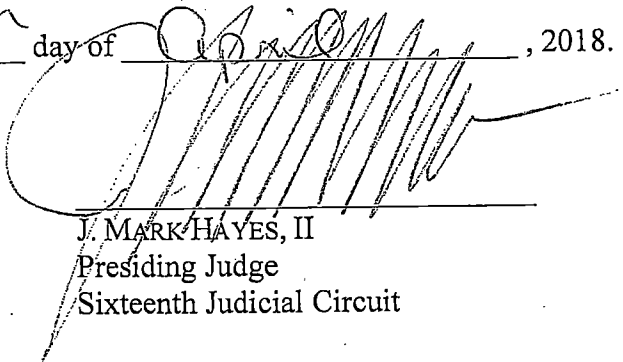
Page 9 of 10

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 20th day of April, 2018.


J. MARK HAYES, II
Presiding Judge
Sixteenth Judicial Circuit

York, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF York
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2017-CP-46-1608

Jonquay Rakee McCombs

State of South Carolina

FILED-RECEIVED
2018 FEB 27 AM 8:26

DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, S.C.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: LEMUEL C. ZEIGLER, LAW CLERK TO THE HONORABLE J.
MARK HAYES, II

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

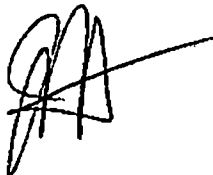
This is a post-conviction relief application. The issues in a post-conviction relief matter primarily focuses on the adequacy of trial/plea counsel's representation of the applicant. In this case applicant pled guilty to several charges (A/B 1st, PWID 2nd and a gun charge). The plea was a negotiated 10 years concurrent sentence.

Even though he disputes the Assault and Battery charge, the plea deal was presented as a package to clear-up all the charges outstanding against the Applicant. The plea arrangement dropped the PWID from a 3rd to a 2nd and he avoided LWOP. Even though he contends his attorney did not interview the ALIBI witness on the Assault and Battery charge, even if true, no prejudice has been shown given the terms of the plea deal. The Assault and Battery charge did not affect the 10 years. The solicitor was not going to go forward with the plea if the Assault and Battery charge was not included.

His primary assertion against his lawyer was that the search of his car which resulted in the drugs being located should have been challenged. The difficulty with this Court making a finding that his lawyer's representation was constitutionally deficient is that he would have lost the ability to plea to the lesser charge and would been facing an LWOP sentence if convicted. The transcript before this Court contains no details about the search. All the information related to the search came from witnesses who testified at the present PCR hearing. Based on the testimony at the PCR, this Court most probably would have not granted the motion to suppress. One significant factor was that the Applicant eventually gave his consent for the search.

The transcript of the plea indicates that applicant was fully aware of his constitutional rights when he entered the plea. It also appears that the plea was made freely and voluntarily.

The Attorney General is asked to prepare a formal order indicating the Applicant has failed to meet his burden of proof and denying the application. The formal order, once signed and filed will be the final order of this Court on this application.



ORDER INFORMATIONThis order ☒ ends ☐ does not end the case.

Additional Information for the Clerk :

A formal Order will follow this Form 4 and be the Final Order in this case.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

2132

Judge Code

2/2/2018

Date

For Clerk of Court Office Use Only

This judgment was entered on the 21 day of Feb., 2018 and a copy mailed first class or placed in the appropriate attorney's box on this 21 day of Feb., 2018 to attorneys of record or to parties (when appearing pro se) as follows:

William G. Yarbrough III
922 North Church St.
Durham NC 27601
 ATTORNEY(S) FOR THE PLAINTIFF(S)

Quentin Hunter
Po Box 11549
Columbia SC 29211-1549
 ATTORNEY(S) FOR THE DEFENDANT(S)
David Hamilton
 CLERK OF COURT

Court Reporter: Shirley Broom

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



York County Sixteenth Judicial Circuit Public Index



York County Home Page [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

Jonquay Rakee Mccombs VS South Carolina State Of

Case Number:	2017CP4601608	Court Agency:	York County Common Pleas	Filed Date:	05/31/2017
Case Type:	Common Pleas	Case Sub Type:	Post Convict Rel 500	File Type:	PCR
Status:	Pending	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:		Disposition Date:		Disposition Judge:	
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties

Click the  icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
☒ Hunter, Justin James	PO Box 11549 Columbia SC 292111549				Defendant Attorney		05/31/2017
☒ Mccombs, Jonquay Rakee					Plaintiff		05/31/2017
☒ South Carolina State Of					Defendant		08/10/2017
☒ Yarborough, William G. III	522 North Church Street Greenville SC 29601				Plaintiff Attorney		05/31/201

Associated Cases

Agency	Case #	External	Relationship	Description	Case Filed Date	Disposition Date	Case Status	Disposition
York County General Sessions	2015A4620500271	N	PCRC		10/27/2015	07/15/2016	Disposed	Pled Guilty
York County General Sessions	2016A4620500026	N	PCRC		02/18/2016	07/15/2016	Disposed	Pled Guilty
York County General Sessions	2016A4620500128	N	PCRC		06/13/2016	07/15/2016	Disposed	Pled Guilty

Actions

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Mccombs, Jonquay Rakee	Order/Form 4 - PCR Application Denied	Order		02/27/2018-08:26		
Mccombs, Jonquay Rakee	Order/Form 4 - PCR Heard & Taken Under Advisement	Order		02/05/2018-16:21		
Mccombs, Jonquay Rakee	Response to Motion For More Definite Statement & Affdvt Serv	Filing		11/07/2017-13:01		
South Carolina State Of	Order Granting Extension of Time To File Return	Order		08/21/2017-16:27		
South Carolina State Of	Return & Motion For A More Definite Stmt/Cert Serv	Filing		08/21/2017-12:14		

South Carolina State Of	Motion For Extension of Time To File Return/ Cert Serv	Motion		08/10/2017-12:18		
Mccombs, Jonquay Rakee	Post Conviction Relief	Filing		05/31/2017-16:09		

Financials**Summary**

Fine/Costs:	\$150.00	Total Paid for fine/costs:	\$150.00	Balance Due:	\$0.00
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Costs

Description	Cost Code	Amount	Charge Action	Disbursed Amount
Civil Filing Fee County 44% / 100%	CVFFCN	\$44.00		\$44.00
Civil Filing Fee State 56%	CVFFST	\$56.00		\$56.00
SCJD Filing Fee Proviso \$50 / \$25	SCJDPV	\$50.00		\$50.00
Motion/Order Filing Fee \$25	MOTION	\$0.00		\$0.00

Payments

Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
05/31/2017	333163	c46ddamon	PY	\$150.00

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2017CP4601608

Jonquay Rakee Mccombs

South Carolina State Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Lemuel Zeigler, clerk

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☒ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: matter taken under advisement.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.
Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

J. Mark Hayes, II.
Circuit Court Judge

2132
Judge Code

2/1/2018
Date

For Clerk of Court Office Use Only

This judgment was entered on February 5, 2018, and a copy mailed first class or placed in the appropriate attorney's box on February 5, 2018, to attorneys of record or to parties (when appearing pro se) as follows:

✓ William G. Yarborough III 522 North Church Street
Greenville, SC 29601

Justin James Hunter PO Box 11549 Columbia, SC
29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter: Shirley Broom

David Hamilton - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

0017CP4601408

FILED-RECEIVED
FORM 5

STATE OF SOUTH CAROLINA MAY 31 PM 4:09

COUNTY OF YORK

DAVID HAMILTON
C.C.C.P. & G.S.
YORK COUNTY, SC

IN THE COURT OF COMMON PLEAS

JONQUAY RAKEE MCCOMBS

00342963

Full name and prison number (if any) of Applicant

v.

State of South Carolina.

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth 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 Kershaw Correctional Institution
2. Name and location of Court which imposed sentence York County General Sessions
3. Name(s) of co-defendant(s) (if any) n/a
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2016-GS-46-01944-Manufacture/distribution of crack cocaine 2nd offense
 - (b) 2016-GS-46-01942-Assault and Battery 1st offense
 - (c) 2016-GS-46-01943-Carrying prohibited weapon

5. The date upon which sentence was imposed and the terms of the sentence:
- (a) July 15, 2016 – 10 years concurrent – Manu/dist crack-2nd off
 - (b) July 15, 2016 – 10 years concurrent – Assault and battery 1st
 - (c) July 15, 2016 – 1 years concurrent – Carrying prohibited weapon
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty X
 - (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. n/a
 - ii.
 - iii.
 - (b) the result in each such Court to which you appealed:
 - i. n/a
 - 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. n/a
 - ii.
 - iii.
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) n/a
 - (b)
 - (c)

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of counsel pursuant to Strickland v. Washington.
 - (b) Applicant's plea was involuntary and made in ignorance.
 - (c)
 - (d)
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel was ineffective pursuant to the standards set forth in Strickland v. Washington.
 - (b) Applicant's plea was involuntary and made in ignorance.
 - (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-conviction 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. n/a
 - ii. n/a
 - iii. n/a
 - iv. n/a
 - (b) the name and location of the Court in which each was filed:
 - i. n/a
 - ii. n/a
 - iii. n/a
 - iv. n/a
 - (c) the disposition thereof:

i. n/a

ii. n/a

iii. n/a

iv. n/a

(d) the date of each such disposition:

i. n/a

ii. n/a

iii. n/a

iv. n/a

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

i. n/a

ii. n/a

iii. n/a

iv. n/a

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

No

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

(a) which grounds have been presented:

i. (a)

ii. (b)

iii. (c)

iv. (d)

v. (e)

(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) _____

(b) _____

(c) _____

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

(a) your arraignment and plea? Yes

(b) your trial, if any? n/a

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? n/a

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? n/a

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. Jessica Russo, 1675-1E York Highway York, SC 29745

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

i. Arraignment and Plea

ii. Sentencing

iii. _____

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

That the Applicant's conviction be overturned and/or a new trial be granted on the merits.

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

No.

STATE OF SOUTH CAROLINA

County of York

VERIFICATION

I, Jonquay Rakee McCombs, 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.

Jonquay McCombs

SWORN to and subscribed before me this 23rd
day of May, 2017.

Theresa Houston-Burn (L.S.)
Notary Public

My Commission Expires: 3/20/24

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

Jonquay Rakee McCombs,)
S.C.D.C. No. 342963,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
OF THE SIXTEENTH JUDICIAL CIRCUIT

2017-CP-46-1608

RETURN AND MOTION FOR
A MORE DEFINITE STATEMENT

FILED-RECEIVED
2017 AUG 21 PM 12:14
CLAYTON HAMILTON
CLERK OF COURT
YORK COUNTY, SC

In making its Return to the application for post-conviction relief (PCR) filed by Heath Millwood (Applicant) on May 31, 2017, Respondent would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the York County Clerk of Court. Applicant was indicted by the July 2016 term of the York County Grand Jury for first degree assault and battery (2016-GS-461942), unlawful carrying of a pistol (2016-GS-46-1943), and possession of crack with intent to distribute (2016-GS-46-1944). Applicant was represented by Jessica Russo, Esquire. Applicant appeared before the Honorable John C. Hayes, III, on July 15, 2016 and pled guilty as indicted to first degree assault and battery, as indicted to unlawful carrying of a pistol, and to PWID crack second offense as a lesser included offense of PWID crack third offense. Pursuant to a negotiation, he was sentenced to imprisonment for ten years for PWID crack second offense, ten years for first degree assault and battery, and one year for unlawful carrying of a pistol. The sentences were to run concurrently. He did not appeal his plea or sentence.

II.

In his application, Applicant alleges the following grounds for relief:

1. Ineffective Assistance of Counsel
2. "Applicant's plea was involuntary and made in ignorance"

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, SCRCPP(a).

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

Additionally, Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this 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), SCRCPP. 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, SCRCPP. 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), SCRCPP.

III.

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a post-conviction relief proceeding, 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 ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Id. 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. 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, 104 S. Ct. 2052. The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

Respondent submits Applicant can satisfy neither requirement of the Strickland test, particularly in light of Applicant's complete failure to list any facts to support his general allegation. 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 further alleges that his plea was not voluntarily made. Respondent submits that this allegation is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

In his application, Applicant alleges ineffective assistance of counsel. However, Applicant has failed to set forth any "facts which support each ground" or to explain with any specificity whatsoever, the actual scenarios/facts upon which these supposed claims are based. The Uniform Post-Conviction Procedure Act requires the applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added).

Respondent submits that it would be unfair to wait until the day of the hearing to finalize the specificity of trial counsel's supposed errors. Respondent and trial counsel are entitled to adequately prepare for the hearing; to withhold the specific grounds and amend only on the day of the hearing prejudices Respondent and trial counsel. Respondent respectfully submits that it is incumbent on Applicant to amend the application and provide specifics so that adequate preparation is possible. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. Rule 15(a), SCRPC.

VI.

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

VII.

WHEREFORE, the Respondent requests an evidentiary hearing for the purpose of determining whether the Applicant's trial counsel was ineffective.

[signature on following page]

Respectfully submitted,

Respectfully submitted,

ALAN WILSON
Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JUSTIN J. HUNTER
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

August 18, 2017

STATE OF SOUTH CAROLINA

COUNTY OF YORK

JONQUAY RAKEE MCCOMBS, #342963,

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2017-CP-46-1608

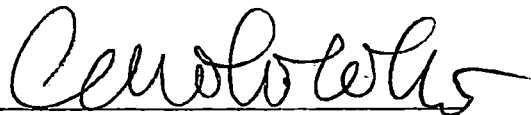
AFFIDAVIT OF SERVICE BY MAIL

FILED-RECEIVED
2017 AUG 21 PM 12:14
DAVID HAMILTON
CLERK, C.C.P. & CS
YORK COUNTY, SC

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 and Motion for a More Definite Statement** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

William G. Yarborough, III, Esquire
William G. Yarborough III, Attorney at Law, LLC
522 North Church Street
Greenville, South Carolina 29601

DATED this the 18th day of August, 2017.



Caroline Collins, Administrative Coordinator
For Respondent



ALAN WILSON
ATTORNEY GENERAL

August 18, 2017

The Honorable David Hamilton
Clerk of Court, York County
Post Office Box 649
York, South Carolina 29745-0649

FILED-RECEIVED
2017 AUG 21 PM 12:14
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Re: Jonquay Rakee McCombs, #342963 v. State of South Carolina
2017-CP-46-1608

Dear Mr. Hamilton:

Enclosed please find the original **Return and Motion for a More Definite Statement** in the above-captioned case for filing in your office.

Sincerely,

Justin J. Hunter
Assistant Attorney General

JJH/cc
Enclosure

cc: William G. Yarborough, III, Esquire

) IN THE COURT OF COMMON PLEAS
) 2017-CP-46-1608

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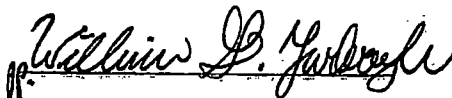
support a third-party defense at trial, he would not have pleaded guilty and instead have proceeded to trial.

- II. Counsel failed to spend adequate time with Applicant explaining the nature of the charges, the evidence against him, and the possible penalties, thus rendering Applicant's guilty plea not knowingly or intelligently made.
- A. At the time of his guilty plea, Applicant did not understand the elements to each charge. Counsel had also failed to thoroughly review all of the State's evidence with him. Counsel also failed to discuss with Applicant the full range of possible sentences.
- B. Particularly, Counsel had advised Applicant that he would only have to serve three (3) to six and half (6.5) years in prison. Had Applicant known that he would be sentenced to upwards of ten (10) years, he would not have pleaded guilty and instead would have proceeded to trial.

Respondent contacted undersigned counsel by email last week to ascertain whether Applicant had more specific grounds to allege. The information set herein are not expected or intended to cause undue delay, prejudice, or a substantial need for additional preparation or investigation.

WHEREFORE, the Applicant, Jonquay Rakee McCombs, respectfully submits this Response to Respondent's Motion for a More Definite Statement.

Respectfully submitted,



William G. Yarborough, III
Attorney for the Applicant
522 North Church Street
Greenville, SC 29601
(864) 331-1612
SC Bar No.: 10271

AFFIDAVIT OF SERVICE

I, Lauren Hobbis, certify that on this date, November 6, 2017, I filed with the York County Court of Common Pleas the enclosed Applicant's Response to Respondent's Motion for a More Definite Statement in this action by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

York County Clerk of Court
Attn: Donna Yarborough, Deputy Clerk of Court for Common Pleas
Post Office Box 649
York, South Carolina 29745

I also certify that on this date, November 6, 2017, I served the enclosed Applicant's Response to Respondent's Motion for a More Definite Statement in this action upon Assistant Attorney General Justin J. Hunter, by mailing it to the Office of the Attorney General, in addition to forwarding him a copy by email, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

South Carolina Attorney General
Attn: Assistant Attorney General Justin J. Hunter
Post Office Box 11549
Columbia, South Carolina 29211

Sworn to before me this 6th
day of November, 2017

Theresa Ben
Notary Public for South Carolina

My commission expires: 3/20/21

Lauren Hobbis

FILED-RECEIVED
2017 NOV -7 PM 1:01
DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF YORK) SIXTEENTH JUDICIAL CIRCUIT
CASE NO.: 2017-CP-46-1608

JONQUAY RAKEE MCCOMBS)
vs.) TRANSCRIPT OF RECORD
STATE OF SOUTH CAROLINA)

NOVEMBER 8, 2017
YORK, SOUTH CAROLINA

BEFORE THE HONORABLE J. MARK HAYES, II

APPEARANCES:

JUSTIN HUNTER, ASSISTANT ATTORNEY GENERAL
COLUMBIA, SOUTH CAROLINA

ATTORNEY FOR THE STATE

WILLIAM G. YARBOROUGH, III, ESQUIRE
GREENVILLE, SOUTH CAROLINA

ATTORNEY FOR THE APPLICANT

SHIRLEY BROOM
16TH Circuit Court Reporter

ALL FEES PURSUANT TO RULE 607 (h) (i), SCACR

COPIES AVAILABLE UPON REQUEST FROM COURT REPORTER

I-N-D-E-X

WITNESSES:	DIRECT	CROSS	RE-DIRECT	RE-CROSS
Jonquay Rakee McCombs				
By Mr. Yarborough	5			
By Mr. Hunter		17		
Jessica Russo				
By Mr. Yarborough	20			
By Mr. Hunter		31		
By Mr. Yarborough			38	
Jonquay Rakee McCombs				
By Mr. Yarborough	42			
By The Court		43		

E-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	EVD.
------------	--------------------	------------	------

(NO EXHIBITS)

1 MR. HUNTER - May it please the Court. The first
2 case today is Jonquay McCombs vs. The State of South
3 Carolina, 2017-CP-46-1608. Your Honor, he waived
4 presentment to the York County Grand Jury for unlawful
5 carrying of a pistol, assault and battery first degree and
6 PWID crack cocaine third offense. He was represented by
7 Ms. Jessica Russo of the public defender's office. On July
8 15th, 2016 he pled guilty before The Honorable John C.
9 Hayes, and he pled guilty as indicted to the pistol charge,
10 the assault charge, and on PWID crack he pled to lesser
11 included of PWID crack second. He was sentenced to ten
12 years on the crack charge and the assault charge and one
13 year for the pistol charges. He filed this current action
14 May 31st, 2017. He is present today represented by Mr.
15 Bill Yarborough.

16 MR. YARBOROUGH - Good morning, Your Honor.

17 THE COURT - Yes, sir. Are you ready to proceed,
18 Mr. Yarborough?

19 MR. YARBOROUGH - Thank you, Your Honor. I'd call
20 Mr. McCombs.

21 THE COURT - Sir, just come right up here and let
22 the clerk swear you in.

23 JONQUAY RAKEE MCCOMBS, AFTER BEING FIRST DULY
24 SWORN, TESTIFIES AS FOLLOWS -

1 DEPUTY CLERK - Thank you. Please be seated, and
2 watch your step, sir.

3 DIRECT EXAMINATION

4 BY MR. YARBOROUGH -

5 Q Mr. McCombs, where are you -- how old are you?

6 A I'm 31, sir.

7 Q What's your full name?

8 A Jonquay Rakee McCombs.

9 Q You're going to have to speak real ---

10 A Jonquay Rakee McCombs.

11 Q And just take it slow. She's taking down everything
12 you're saying. Okay?

13 A Yes, sir.

14 Q And you're before the Court because you feel like your
15 counsel didn't represent you well?

16 A Yes, yes, sir.

17 Q Okay. Can you tell Judge Hayes who represented you?

18 A Jessica Russo.

19 Q Okay, and what were you charged with? Do you recall?

20 A I was charge with PWID third offense, assault and
21 battery first degree and possession of a weapon.

22 Q Okay. And let's talk about the PWID case. Okay?

23 A Yes, sir. Yes, sir.

24 Q Are you familiar with the facts of that case?

25 A No, sir.

1 Q Okay. Did you know anything about those drugs?

2 A I didn't have knowledge.

3 Q Okay. But those drugs were found somewhere where you
4 were not. Right?

5 A Yes, sir.

6 Q Okay, let's -- tell the -- tell the Judge where those
7 -- as you understand it where those drugs were found?

8 A Outside.

9 Q Outside where?

10 A In the car.

11 Q Okay, and were you in that car?

12 A No, sir.

13 Q Okay, and where were you when the police -- tell the -
14 - tell the Judge about what happened that night?

15 A Well, I was in Lashawn -- I was in Lashawn Rose house
16 over there on East Jefferson Street, you know what I'm
17 saying. There was a call that it was a, uh, a little baby
18 called the police fifty-one times on a cell phone, so they
19 came to the address, and, you know what I'm saying, they
20 didn't, um, -- they knocked on the door and didn't nobody
21 come to the door, so they came to the next residence, they
22 knocked on the door, so Lashawn came to the door, they
23 asked her was -- did she have any kids, she was like, yes,
24 sir, he was like, how old, she would say seven and four,
25 you know what I'm saying, then he was like, oh, okay, do

1 any one of your kids have a cell phone. She was like, no,
2 sir, you know what I'm saying, so he was like ---

3 Q Well, I mean you -- you don't know all this, you just
4 -- were you listening?

5 A Yes, sir.

6 Q Okay. So you could hear this happening?

7 A Yeah, I'm -- I'm -- I'm sitting there in the living
8 room.

9 Q Okay, so you're sitting in the living room of this
10 house and the police are there.

11 A Yes, sir.

12 Q Okay. And did you know anything about the police
13 being called?

14 A No, sir.

15 Q And did they know anything about you?

16 A No, sir.

17 Q Okay, so you're inside the house.

18 A Yes, sir.

19 Q All right, and -- and how did this interaction about
20 this car outside take place?

21 A I don't know. They -- after they got finished up with
22 us, they said they had probable cause because they smelled
23 marijuana coming through the vent. She told them ---

24 Q Coming through the vents where?

25 A Of the apartment. So she took ---

1 Q Okay, did they -- they look around in your apartment?

2 A No, sir. They didn't -- they didn't even come in.

3 They didn't search or nothing, because they was worrying
4 about the vehicle out there.

5 Q Okay, but were you in the vehicle?

6 A No, sir, I was in the house.

7 Q Okay. And had you been driving that vehicle?

8 A No, sir. The vehicle was cold. They -- he even
9 touched it, could tell that it was cold. The vehicle
10 haven't been drove in hours.

11 Q All right. And so how did the police end up getting
12 in the car?

13 A Because they said that they was -- they held me there.
14 Four officers said they was going to get a search warrant,
15 you know what I'm saying.

16 Q Get a search warrant for what?

17 A To search the vehicle.

18 Q Did you give them consent to search that vehicle?

19 A No, sir, I did not.

20 Q Okay. Did you tell your lawyer that you did not give
21 them consent to search that vehicle?

22 A Yes, I did.

23 Q Okay. Did you feel like that they had the right to
24 search that vehicle?

25 A No, sir.

1 Q Did you want your lawyer to file a suppression motion
2 to suppress any evidence that was found in that vehicle?

3 A Yes, sir.

4 Q All right, and why did you feel that that's what she
5 should do?

6 A Because I feel like they didn't get anything off of
7 me, you know what I'm saying, wasn't nothing in my
8 possession.

9 Q Okay. At some point you pled guilty to those drugs.
10 Right?

11 A Because I felt I was forced to.

12 Q Okay. Now, explain that to Judge Hayes.

13 A I just -- I felt like I was forced, because, you know
14 what I'm saying, after she talked to me about, she said,
15 hon, the solicitor came up with agreement, you know what
16 I'm saying, ten, so I'm asking could they go lower, but she
17 was like, no, he said that he don't want to move from --
18 from lowering that, so I just ---

19 Q But did you try to say, hey, look, those aren't my
20 drugs, I don't want to -- I don't want to deal with that?

21 A No, because they told me I was looking at a life
22 sentence because my -- my previous background, so they told
23 me I was looking a life sentence, so I didn't really want
24 to press the issue, because I was already scared.

25 Q Okay, but ---

1 A So I felt like I was ---

2 Q --- now that you've had a chance to look at it, do you
3 realize or do you feel like that the car was searched
4 improperly?

5 A Yes, sir, it was.

6 Q And do you know if -- if there was ever a suppression
7 motion filed?

8 A No, sir, not -- not to my knowledge.

9 Q So that's -- that's one of the issues you have.
10 Correct?

11 A Yes, sir.

12 Q Okay. Now, let's talk about this gun charge. What --
13 where was that gun found?

14 A You talking about the possession of a weapon?

15 Q Yes, sir.

16 A See, I -- the, um, -- the, um, gun charge -- the gun
17 was under the seat, a .38 special.

18 Q Was under the seat where?

19 A Of my car.

20 Q Okay. And that's the car that was searched.

21 A Yeah, that was the car that was searched.

22 Q On the night of the -- that the police were out there,
23 because the child had ---

24 A No, this -- all this was different nights. This was -
25 --

1 Q Okay, so you do take responsibility for that ---

2 A Yeah, I take responsibility for possession of a
3 weapon. I take responsibility of that, but the PWID second
4 and the assault and battery first, I do not.

5 Q Okay. Well, we've talked about the PWID second.
6 Let's talk about the assault and battery.

7 A Yes, sir.

8 Q Okay. Why did you plead guilty to that assault and
9 battery?

10 A Basically, like I was telling you like they said that,
11 you know what I'm saying, they wasn't going -- they
12 couldn't lower it, you know what I'm saying, my past
13 background, you know, I'm looking at a life sentence, you
14 know, so I just, you know what I'm saying, I say a ten
15 better than life, you know what I'm saying, at least I do
16 have a max-out date, because if I have life, natural life,
17 I don't have no max-out date. I got family I want to get
18 back to and stuff like that, so, you know, and just stress,
19 you know, and then, you know, family issues and then, you
20 know, stuff like that, so it was just ---

21 Q So did you -- tell the -- tell the -- do you know the
22 facts and the circumstances around that case?

23 A What -- do I know the facts and circumstances?

24 Q Yeah, did you have anything to do with it?

25 A No, sir, I had nothing to do with it.

1 Q Did they ever get a gun from you?

2 A No, sir.

3 Q Ever, to your knowledge, tie you to the gun at all?

4 A Sir. (sic)

5 Q All right.

6 A All I know that they charged me with it, and I thought
7 that if you charged with something, you know what I'm
8 saying, that I didn't do, you know what I'm saying, and ---

9 Q Did you talk to your lawyer about it?

10 A Yeah, I talked to her. Well, I'm saying, I talked to
11 her, but, you know, how -- you know, they only talk to you
12 one or two times and then pressure you to go to court, you
13 know.

14 Q Okay. Well, let's -- we've talked about the three
15 charges. Now, let's talk about your representation.

16 A Yes, sir.

17 Q Okay. Did you sit down and go over the police reports
18 with your lawyer?

19 A She didn't really go over nothing with me. All the
20 thing they was doing was discussing time, life sentence,
21 you know what I'm saying, fifteen, ten years. Like it
22 wasn't really no discussion, man. It was just, basically,
23 go on here and sign this plea deal so I can get on to the
24 next case pretty much.

1 Q Right. And so you felt like you weren't represented
2 properly.

3 A I wasn't represented properly.

4 Q Okay. And you don't feel like they went over their --
5 the discovery with you.

6 A Not really. I had a hard time getting that. I mean
7 during the ---

8 Q Right, but you and I have had a chance to go over it.

9 A Yeah, yeah, we did. You the best help that I done had
10 so far.

11 Q Well, thank you. Do you feel like the -- if you would
12 have gone over the discovery with your lawyer before, like
13 we've gone over since then, that you would not have pled
14 guilty?

15 A Yes, sir.

16 Q Okay. You know, you went in front of a Judge. Why
17 didn't you ask the Judge not to sentence you, stop, you
18 know, I don't feel like I'm guilty?

19 A Well, when the case is over, like, like, we -- I asked
20 for appeal but say it wasn't necessary, like that was the -
21 - that was the best -- they got me a good offer, so it
22 wasn't -- she was like it wasn't no reason to go for
23 appeal.

24 Q But you feel like it wasn't a good offer, because you
25 weren't guilty.

1 A Yes, sir.

2 Q The only thing you admit you're guilty of is this gun
3 charge.

4 A That's it. That's the only thing I take -- I take
5 full responsibility of that, but the other two charges, I -
6 - I don't take responsibility for that. I just felt like I
7 was railroaded.

8 Q Okay. And just so that the record's clear and the
9 Court's clear, the two charges you're complaining about,
10 one is this PWID cocaine and that's the cocaine that was
11 found in the car that didn't -- that was just out in front
12 of the apartment. Right?

13 A (Indicating yes)

14 Q And you didn't feel like there was anything that tied
15 you to that -- those drugs. Correct?

16 A Yes, sir.

17 Q And you never gave anybody any authority to search
18 that car or had anything to do with the search of that car.

19 A No, sir.

20 Q Is that correct?

21 A No, sir.

22 Q Okay. And then as far as the shots are concerned, was
23 there any evidence against you?

24 A They said that they found a shell casing.

1 Q Yeah, but did -- how did that shell casing have
2 anything to do with you?

3 A That's what I'm -- that's -- that's what I want to
4 know.

5 Q Okay. Well, did you ask your lawyer all those
6 questions?

7 A Sir, I'm -- she -- basically, she didn't really --
8 man, all she wanted me to do was sign these papers, sign,
9 sign, sign, you going to court this day.

10 Q You seem like a pretty smart guy, and you didn't think
11 you could stop that?

12 A Well, kind of sort of but not really, you know,
13 because every time she talked like -- they always bring up
14 my background history, you know, my background history, you
15 know, you know, that's what they looking at, your past
16 history. Like, I don't see how you could hold that
17 accountable, you know what I'm saying, my past history on
18 the charges that I have right now, but, you know. I don't
19 know how -- really know how this work. I'm not a lawyer,
20 you know what I'm saying. I'm just a average human being,
21 you know what I'm saying, trying to live the right way.

22 Q Did you try to get her to interview the witnesses from
23 the two cases?

24 A (No response)

1 Q Wasn't there -- there was a -- was there a female at
2 the apartment?

3 A Yeah, a ---

4 Q Do you know did she ever talk to that female?

5 A No, sir.

6 Q And what about where the shooting took place? Did
7 your lawyer ever talk to anybody there?

8 A No, sir.

9 Q And that was not you that fired those -- that gun. Is
10 that ---

11 A No, sir. I was at -- I was at 205 Washington Street,
12 York, South Carolina, my address, me and my cousin, Denyon
13 (phonetic) Neely, because it was his birthday.

14 Q Right. And did you tell your lawyer that?

15 A She know that.

16 Q Right.

17 A She have knowledge of that. It should be on record.

18 Q And you still -- they still -- you still went forward
19 with the guilty plea.

20 A I felt like I was pressured.

21 MR. YARBOROUGH - Okay. Thank you. Answer any
22 questions the State has for you.

23 CROSS EXAMINATION

24 BY MR. HUNTER -

1 Q So how many times did you meet with your attorney
2 before your plea?

3 A Probably like two, probably three -- three times at
4 the most.

5 Q And what did y'all discuss?

6 A We never really discussed nothing. She was just
7 telling me I'm facing life sentence and all this, and her
8 and the solicitor they talk about this and, you know, you
9 know what I'm saying, have a nice day, send me on home,
10 like, basically, it was just, basically, coming out here
11 just to make sure I wasn't going to run, you know what I'm
12 saying, and send me back home until it was time for me to
13 go to Court.

14 Q So y'all didn't even discuss the charges you were
15 facing?

16 A Yeah, we discussed the charges, but you know what I'm
17 saying, she didn't really go into details or I feel like
18 she didn't really try to pretty much help me, you know what
19 I'm saying. She just made me plead to something that they
20 felt comfortable at, you know what I'm saying, or whatever
21 circumstances may have been, sir.

22 Q Okay. And during the plea hearing, I guess the
23 solicitor went over the facts, the solicitor said that the
24 officers searched the car because of your permission and
25 you agreed with the facts.

1 A That's what they put in there, but I didn't ever
2 agree, sir. That's just -- that's what they ---

3 Q What about on page 9 when the Judge asked, do you
4 agree with the facts, and you said yes?

5 A What'd you say, sir?

6 Q Do you remember the Judge asking you if you agree with
7 the facts, and you said, yes?

8 A When you talking about, right now?

9 Q No, during the plea hearing.

10 A I have no knowledge of that, sir.

11 MR. HUNTER - Your Honor, may I approach?

12 THE COURT - Yes, sir.

13 Q This is page 9 of your plea hearing, specifically,
14 lines 18 through 20. Do you remember that?

15 A No, sir.

16 COURT REPORTER - I didn't hear what he said.

17 A I said, no, sir.

18 Q Okay, so this is incorrect?

19 A It's got to be.

20 Q Okay. And do you remember telling the Judge during
21 the plea hearing that no one had threatened you to plead
22 guilty?

23 A Yes, sir.

24 Q Okay. But you're just saying you were under a lot of
25 stress, and that's why you felt like you had to plead?

1 A Nah, it ain't -- it ain't that I was under stress,
2 like I felt like I was pretty much like pushed to take a
3 plea ---

4 Q Pushed by who?

5 A --- that didn't -- that didn't really fit the crime.
6 By my lawyer, Jessica Russo.

7 Q So you felt pushed to take the plea and you never told
8 the Judge that, plea Judge?

9 A No, sir.

10 Q You just kept going with the plea hearing?

11 A Yeah, because she said she had, she, my attorney.

12 Q And she got you, I guess, a ten year negotiated plea.
13 Is that correct?

14 A Yes, sir.

15 Q And you said she told you that you were racing a life
16 sentence?

17 A (Indicating yes)

18 COURT REPORTER - He needs to answer verbally.

19 A I say, yes, sir. She was like, you know, if you -- if
20 you go on with the case, you know you could be facing a
21 life sentence.

22 MR. HUNTER - Okay. That's all I have. Thank
23 you.

24 THE COURT - Any re-direct limited to what he went
25 into?

1 MR. YARBOROUGH - No, sir, Your Honor.

2 THE COURT - Thank you, sir. You may step down.

3 Watch your step as you're stepping down, sir.

4 Applicant have another witness to call?

5 MR. YARBOROUGH - Yes, sir, Your Honor. Call Ms.
6 Russo, Jessica Russo.

7 THE COURT - Just come right up here and let the
8 clerk of court swear you in.

9 JESSICA RUSSO, AFTER BEING FIRST DULY SWORN,
10 TESTIFIES AS FOLLOWS -

11 DEPUTY CLERK - Thank you. Please be seated.

12 DIRECT EXAMINATION

13 BY MR. YARBOROUGH -

14 Q Ms. Russo, state your name for the record.

15 A Jessica Marie Russo.

16 Q And did you represent Mr. McCombs?

17 A I did.

18 Q Can you tell the Court about that representation?

19 A I represented him on three separate cases. He -- his
20 initial appearance date on the first case was in December
21 of 2015, and that's when I initially met him.

22 Q Okay, and that initial case was which case?

23 A That was the gun charge which was eventually dropped
24 to an unlawful carry.

1 Q Okay. And do you remember the facts and circumstances
2 of that case at all?

3 A Roughly, yes. He was driving. I believe they were
4 investigating some other type of case, shots fired or
5 something like that. I believe he had, actually, stopped
6 his vehicle. They saw him stopped. He got back in, was
7 driving. They eventually conducted a traffic stop on him.
8 He got out of the vehicle. They asked him to get back in.
9 Eventually, there was a search of the car where they found
10 a gun underneath the seat inside the vehicle.

11 Q And -- and he always told you he'd admit to that.

12 A He told me that the gun belonged to his girlfriend, he
13 understood that he had knowledge of the gun being in the
14 vehicle and that would still be unlawful carry, and he
15 didn't want to drag her in to have to testify to that and
16 said that he -- we had a plea deal in place that he had
17 agreed to when he picked up his next set of charges.

18 Q Okay, and so he never went to Court on that before he
19 ---

20 A He did not. We had him scheduled to come in, and then
21 he picked up the next set of charges and so that was
22 delayed.

23 Q Okay, when you say the next set of charges, which
24 charge was that?

25 A That was the PWID crack third offense.

1 Q Okay. And now in that case, as I understand it, do
2 you recall the facts of that case?

3 A Yes, um, it was a little weird. The officers came out
4 to investigate some 911 hang-ups, they're out at the
5 apartment complex when they smell marijuana coming from Mr.
6 McCombs' girlfriend's apartment. They're speaking with her
7 when they for some reason start to investigate his vehicle.
8 They bring him out; they're talking with him about his
9 vehicle. At some point he says, no, you cannot search.
10 They're talking to him about how it smells like marijuana,
11 they think they can get a warrant, they ask him about a
12 Crown Royal bag that's inside the vehicle. That Crown ---

13 Q And so are they -- they're looking in the vehicle?

14 A They're looking inside the windows, yes.

15 Q And was it correct that they said that the vehicle was
16 not -- hadn't been used, it hadn't been running? They ---

17 A They said that the vehicle was illegally parked, but I
18 don't recall anything in the report about it not having
19 been recently used or being recently used.

20 Q Did you consider filing a suppression motion in -- on
21 that case?

22 A I did, and I talked to Mr. McCombs about how any
23 suppression hearing would've occurred at trial, and at that
24 point we would have say -- you know, the offer would be off
25 the table, and he would have to face any maximums or

1 minimums at trial in order to file that suppression motion
2 if he wanted to do that.

3 Q Okay. And did he tell you he wanted to do that?

4 A No, he wanted to move forward with the offer.

5 Q Okay. And did you -- did you think that there was a
6 high likelihood that he would have success at the ---

7 A I had some concerns about the search. I did express
8 that to him, and it was very strange how they talked to him
9 and how they said it smelled like marijuana but still
10 wanted to get consent, how there was something written in
11 the report about how he said there was no marijuana in the
12 car, but the way he said it made it sound like there was.
13 There were things in the report that gave me cause for
14 concern, but, ultimately, the smell of marijuana in a
15 vehicle is, generally, enough to get officers inside a car
16 even without a warrant. I felt that ---

17 Q You don't think that once he said that I don't want
18 them to search the car, that that was enough to stop?

19 A Ultimately, he unlocks the vehicle and allows them to
20 search the car.

21 Q Okay, let's try to revisit -- have you looked at the
22 police reports lately?

23 A I reviewed at least one of them.

24 Q He told them at some point that they could not search
25 the car. Right?

1 A Correct.

2 Q And he was not in the car. Right?

3 A Yes.

4 Q He was not driving the car.

5 A Yes.

6 Q The car was parked.

7 A Yes.

8 Q He was inside his house.

9 A (Indicating yes)

10 Q Right?

11 A Yes.

12 Q And the police looked at the car and at some point he

13 told them they -- they could not search. Is that correct?

14 A Correct.

15 Q Okay. And -- and at some point they said it didn't

16 seem like the car had been driven.

17 A I don't recall that being in the report, no.

18 Q And the police officers never got a warrant to search

19 that car.

20 A I don't believe so.

21 Q Okay. And so -- I mean -- at some -- at some point

22 his constitutional rights attached and they've got to make

23 a decision either to go get a search warrant or go home.

24 Right?

25 A (No response)

1 Q So you could've -- you could've filed a search -- a
2 suppression issue and fleshed all those issues out.

3 A If Mr. McCombs wanted to give up the offer and did not
4 want to take the ten years, then, yes, I would've filed a
5 motion to suppress at trial.

6 Q Okay, and he -- he would've had better grounds in a
7 motion.

8 A Yes.

9 Q Okay. And those were constitutional rights that he
10 waived. Correct?

11 A Yes.

12 Q And you -- based on your advice to him?

13 A We discussed them, but it was also my understanding
14 that he did not wish to go to trial and he had expressed
15 that to me.

16 Q Okay. Now, you heard him testify that he said he only
17 met with you a couple of times. Is that correct? Or do
18 you recall differently?

19 A I recall meeting with him in person at least three
20 times and also several phone calls.

21 Q When you met with him, was he in jail or was he out?

22 A He was ---

23 Q He was out?

24 A --- out when I met with him, yes.

1 Q Okay. Now, do you know anything about the phone calls
2 that came in that got the police over there that night?

3 A I don't.

4 Q Okay, did you try to get the 911 logs or anything like
5 that?

6 A I did not.

7 Q Do you know if there were children that had access to
8 a telephone that night that were ---

9 A I don't.

10 Q Okay, but they clearly were not there investigating
11 Mr. McCombs or the car?

12 A They were not.

13 Q Now, do you recall the -- let's jump to the case at
14 three (sic). Do you recall the facts of the gun-firing
15 case?

16 A Yes. Yes.

17 Q Okay. Was any ballistics done?

18 A Not to my knowledge, no.

19 Q Okay. And no -- no -- I guess there wouldn't been any
20 DNA. There wasn't -- but -- were they able to get a gun --
21 in that case -- I'm not talking about the other case. I'm
22 talking about were they able to get a gun from Mr. McCombs?

23 A I don't believe so.

24 Q Okay. And did they have an eyewitness that said he
25 had fired the gun?

1 A Yes.

2 Q Okay. And did you interview that witness?

3 A I did not.

4 Q Okay. And do you know who that witness was?

5 A I believe it was the sister or relative of the victim.

6 Q Okay. And did Mr. McCombs tell you that he had an
7 alibi for that time?

8 A I don't recall him telling me that. I do recall him
9 telling me that he did not do it.

10 Q Okay. And do you not recall him saying he was with a
11 friend of his watching a ballgame or something?

12 A I don't recall that, and I don't have any notes in my
13 file as to that.

14 Q Okay. So when he said that today, did you recall him
15 saying that or was that ---

16 A I don't recall that.

17 Q But it's safe to say you didn't investigate that.

18 A I did not.

19 Q Okay. And -- and I'm not trying to -- I want to try
20 to ask this question -- did you feel like that Mr. McCombs
21 had a fighting chance to win these cases?

22 A I felt like the drug case was going to be our biggest
23 priority considering that was the one that made him
24 eligible for a potential life sentence ---

25 Q Right.

1 A --- and carried the most time. He expressed to me
2 that he did not wish to go to trial on that and wanted me
3 to get him an offer that carried less than double digits.
4 I did my best to do that and when I did, they would not
5 dismiss the A&B first as part of that and he wished to go
6 forward even knowing that he would have to plead to that
7 charge.

8 Q Okay. And so did you advise him, even though the
9 facts were not very strong against him, that he should take
10 that offer?

11 A I advised him that if he did not want to face a life
12 sentence or thirty years, that, yes, ten years was going to
13 be the best offer that he was going to receive.

14 Q All right. And so, basically, the prosecution was
15 forcing Mr. McCombs into a plea.

16 A He had the ability to go to trial. I went over his
17 trial rights with him. I discussed with him his ability to
18 have a suppression hearing on the drugs at trial if he
19 wanted to and the fact that there were some strange things
20 about that search that he could challenge at trial if he
21 wanted to. He had the option to do that.

22 Q All right, and did that -- but that never was done.

23 A No, we did not have a trial.

24 Q I mean -- but you never had a suppression hearing
25 either.

1 A No, because we did not have a trial.

2 Q When the case came up on the docket, was he called
3 over there for a plea, or did he think he was going to
4 trial?

5 A They, actually, called him in for a motion to revoke
6 his bond because he had received so many charges. He was
7 required to come in to have his bond revoked. Instead, I
8 convinced the solicitor to let him have two weeks to
9 consider his offer, considering if he accepted it, he would
10 be going to SCDC, give him a deadline on the offer so that
11 when he came in he could accept or reject the offer, and
12 that if he rejected, he would know that we would have a
13 bond revocation hearing.

14 Q And did -- you feel like he understood that?

15 A I think he did, yes.

16 MR. YARBOROUGH - All right. Excuse me.

17 Q If -- if Mr. McCombs feels like he was railroaded into
18 this, would you agree or disagree?

19 A I would disagree.

20 Q Okay. And why would that be?

21 A And I -- I guess everybody defines railroad
22 differently.

23 Q Right.

24 A I understand that he was facing difficult
25 circumstances. He either had to take his chances at trial.

1 and potentially face a life sentence or accept ten years
2 and maybe he considers that to be railroading, but I don't.

3 Q I know you keep referring to a life a sentence, but
4 that life sentence was based on the car that was parked out
5 in front of an apartment that he happened to be in.

6 Correct?

7 A Correct.

8 Q And there wasn't anybody in the car.

9 A There was not.

10 Q And Mr. McCombs had told them that they could not
11 search the car.

12 A At one point, yes.

13 Q And they ended up searching the car without a search
14 warrant.

15 A They did.

16 Q He did not have the -- let me ask -- he didn't have
17 the benefit of a judicial officer trying to make a decision
18 of whether or not to search that car was good or not. Is
19 that correct?

20 A That's correct.

21 MR. YARBOROUGH - Thank you. I don't have any
22 further questions.

23 MR. HUNTER - May it please the Court.

24 CROSS EXAMINATION

25 BY MR. HUNTER -

66

1 Q Good morning. How are you doing?

2 A I'm all right.

3 Q I believe you said you first met with him December,
4 his initial appearance on the first charge?

5 A Yes.

6 Q And how many times total would you say you met with
7 him? I believe you already testified, but how many times
8 was that?

9 A I met with him at least three times, and we had
10 initial appearance on the first charge. We had an initial
11 appearance on the second charge at which we did go over the
12 discovery, and we met in person to go over the plea
13 paperwork and all of that in depth.

14 Q Okay. So during your meeting with him, explain what
15 you went over with him as far as discovery's concerned.

16 A So we go over any of the reports that they give us, so
17 if we have an incident report, we go over that. If we have
18 a general sessions summary or something like that where
19 they've summarized all the reports, we go over that, and we
20 did that in the case with the gun and the case with the
21 drugs. I recall talking to him about the drive-by shooting
22 case, the assault and battery first, however, he entered
23 his plea before that initial appearance date, so I can't
24 recall if we did that by phone or if that was another in-
25 person meeting.

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1 Q So all of these charges were part of one plea,
2 obviously. Correct?

3 A Yes.

4 Q And was that part of the deal? Did you have a problem
5 doing that?

6 A No. They were all wrapped up into one. I did try to
7 get the solicitor to drop the A&B first, because Mr.
8 McCombs had told me that he didn't do it, and the solicitor
9 was not willing to drop that as part of the plea.

10 Q Okay. And did you all sign a plea waiver form in this
11 case?

12 A I believe we did.

13 Q Do you remember going over that?

14 A Yes.

15 Q And what do you do when you sit down with a client to
16 go over that form?

17 A I read out, go over the charges, the maximums, the
18 minimums, everything that it carries, whether it carries a
19 different percentage, whether it's violent, serious,
20 everything else. As to the original charge, as well as the
21 charge that they're, actually, pleading to, I go over grand
22 jury rights. We talk about all the rights at trial. We
23 talk about the right to appeal, which I don't recall him
24 requesting in this case, so I don't believe an appeal was

1 ever filed. We talk about all of those things and then he
2 initials all of the rights that apply to his case.

3 Q And this case was a negotiated plea. Correct?

4 A It was.

5 Q Negotiated ten years?

6 A Correct.

7 Q Okay. So as far as your investigation or at least to
8 your understanding of the facts, with that crack charge, I
9 believe you testified earlier that he at some point told
10 the officers not to search the car. Correct?

11 A Correct.

12 Q And as far as the plea hearing is concerned, the
13 solicitor said that he gave them permission. Do you
14 remember that?

15 A Yes.

16 Q Did you go over that?

17 A So the discovery describes that he is talking to the
18 officers, tells them, no, you cannot search the vehicle,
19 they're looking at the Crown Royal bag, he says there's a
20 bottle in the Crown Royal bag, officers say, it doesn't
21 look like there's a bottle in that bag, you know, that is
22 not what's in that bag, can you tell us what's in the bag.
23 They're asking him about whether there's marijuana in the
24 car. He's saying, no, there's not marijuana in the car,
25 which leads them to believe that maybe there's something

1 else, so eventually he tells them that there is crack
2 inside the Crown Royal bag, because there's a small amount
3 of crack in the Crown Royal bag, and they say, can we
4 retrieve the crack, and he says, yes, you can enter the car
5 and retrieve the crack, and he unlocks the vehicle for
6 them. That's my understanding of how that occurs, at least
7 in the reports.

8 Q Did you go over that with him?

9 A We did. We went over the reports, and he would've
10 heard that version of events.

11 Q Okay, so if he heard that version, did he during the
12 meeting dispute that version?

13 A He did tell me at some point that both Lashawn and I
14 think her cousin or some relative or friend would have been
15 present to have heard him say that he did not consent to
16 the search of the vehicle and he told me that he never
17 consented.

18 Q So as far as the facts go though, sounds like he told
19 them not to search, but, ultimately, told them they could
20 open the car?

21 A That was the officers' version of events, yes.

22 Q Okay. And did you explain to him that if you're
23 pleading guilty, you are agreeing to these facts? Did you
24 explain that?

25 A Yes.

1 Q Did he have any problem with that?

2 A Not that I recall.

3 Q And do you recall at the plea hearing how that was
4 conducted?

5 A I believe it was a relatively standard hearing. The
6 Judge would've asked him if I went over his rights with
7 him, made sure he understood the rights that he was giving
8 up, would've asked the solicitor to read out the facts and
9 probably would've asked him if those facts were correct,
10 depending on the Judge.

11 Q Okay. As far as the plea hearing goes in this one in
12 particular, if something had come up that would've caused
13 you concern that he wasn't ready to plead, that he did not
14 understand what was going on, would you have stopped the
15 plea?

16 A Yes, or he could've stopped and asked me any questions
17 that he had during the plea.

18 Q Was he aware of that, that he could've stopped at any
19 time to ask you questions?

20 A Yes.

21 Q He did not?

22 A I don't recall him doing so.

23 Q So just in total, do you believe he understood exactly
24 what was going on that day when he pled guilty?

25 A Yes.

1 Q And he understood the sentence he was given.

2 A Yes.

3 Q And do you believe he understood what he was giving up
4 to plead guilty?

5 A I believe so.

6 Q And again, I believe you testified he did not ask for
7 an appeal? Is that correct?

8 A I don't recall him asking for one. I have no notes
9 that he requested one.

10 Q You don't recall that? Okay. And aside from the ten
11 year negotiation that y'all ended up with, how did the plea
12 negotiations get to that?

13 A The solicitor contacted me and said that he was going
14 to offer the ten years. I believe that was, actually,
15 before the last charge occurred, the last -- the A&B first.
16 Then he requested the revocation of bond, which kind of put
17 us in a tight spot, but I asked in return if we could get a
18 lower sentence. I, actually, asked, I think, for five, and
19 he said, no. I think I requested eight, and he said, no.
20 He explained his reasoning, that he felt Mr. McCombs was
21 LWOP eligible, that he felt he was getting him out of
22 eighty-five percent territory, that Mr. McCombs does have a
23 criminal background that he was considering. I took that
24 offer to Mr. McCombs, which he was happy with the ten but
25 was unhappy with having to plead to the A&B first. I went

1 back to the solicitor and asked if he would drop that
2 particular charge and he said, no, if he wants the ten,
3 he's going to have to plead to everything as a package
4 deal, and then we agreed to that.

5 Q Okay, so, ten years was the first offer.

6 A It was.

7 Q And at what point was the discussion had about
8 dropping the drug charge to -- to a lower level?

9 A I think that was offered as part of the original
10 offer.

11 Q Was he aware of what that was and that they were
12 dropping to second offense?

13 A I believe so, yes.

14 Q Okay. And did you tell him with all these charges,
15 but, particularly, with the drug charges, original and the
16 ones he's pled to, did you tell him what the potential
17 sentencing range were on those?

18 A Yes, and we would've especially gone over that with
19 the plea form. We would've gone over that again, but we
20 discussed that as part of plea, you know, as we were kind
21 of going back and forth a little bit in phone calls, but
22 also I believe Mr. McCombs has faced a third offense
23 before. When he came in for his initial appearance on that
24 charge, he already knew what he was facing. He knew that
25 it was very serious, sat down with me and said I know that

1 I'm facing -- he might not have known exactly thirty, but
2 knew that it was very serious and told me he would be very
3 happy to get something under double digits.

4 Q And would you have taken this to trial if he wanted it
5 taken to trial?

6 A I would have.

7 Q But, ultimately, he decided to plead guilty.

8 A Yes.

9 Q Do you believe that was his decision to plead?

10 A I believe so.

11 MR. HUNTER - Nothing further. Thank you.

12 THE COURT - Any re-direct limited to what he went
13 into?

14 RE-DIRECT EXAMINATION

15 BY MR. YARBOROUGH -

16 Q Do you feel like you could've won the search issue?

17 A I don't know.

18 Q And he told them they couldn't -- I mean all the
19 police reports -- you've looked at them you said -- and all
20 those police reports they did not have permission to search
21 the vehicle when they asked him about it.

22 A That's what he says.

23 Q And -- well, I mean that's what's in the police
24 reports, too. Correct?

25 A At the beginning, initially, yes.

1 Q Okay. And at some point his constitutional rights
2 attach and if he says, no, they've got -- the next step
3 they've got to go get a search warrant. Right?

4 A I mean if he says, no, but they eventually get him to
5 consent ---

6 Q I mean don't you have to at least at that point do an
7 analysis of why he was -- why he consented?

8 A Sure.

9 Q And did you do that analysis?

10 A I mean I think he consented, because he continued
11 talking to them and continued telling them that there were
12 drugs inside the vehicle. At least that would be what the
13 officers would say.

14 Q He said, no, you can't search the car, and then they
15 continued to badger him with questions, and so you felt
16 like at some point it wasn't worth trying to flesh the rest
17 of that out?

18 A I mean at some point when he tells me, I don't want to
19 take this to trial, and I don't want to pursue that, then,
20 no, I guess I didn't spend hours researching the answer to
21 the question.

22 Q Okay. If he says that he wanted to protect his
23 constitutional rights, you don't agree with that. He
24 wanted to go forward with the guilty plea.

1 A I don't think that he ever expressed to me that he
2 wanted a trial.

3 Q And did -- you met with him how many times?

4 A At least three times in person.

5 Q Okay, and were those normally over here at the
6 courthouse?

7 A Yes.

8 Q And outside in this office here?

9 A No, we met in our conference room downstairs when we
10 met about the drug charges.

11 Q And -- without doing the research or the analysis, you
12 felt like -- I mean hindsight's 20/20 -- you felt like you
13 gave him good advice on the search?

14 A I feel like those answers are always difficult, and I
15 can never tell anyone that it's going to a sure thing, and,
16 ultimately, they have to make that call, because I'm not
17 the one who goes back there and has to spend the rest of my
18 life.

19 Q I guess that's not the question. The question is, do
20 you feel like you were able to explain to Mr. McCombs what
21 his possible rights were in regards to that search issue?

22 A To the extent that anyone could, yes, those issues are
23 always very murky.

1 Q Okay, and did you tell him that, you know, based on
2 it, he may have a decent change of having the drugs
3 suppressed?

4 A Yes.

5 Q You don't recall him giving you the name of the alibi
6 witness in the shooting case?

7 A I don't.

8 MR. YARBOROUGH - I don't have any further
9 questions.

10 THE COURT - Thank you, ma'am. You may step down.
11 Watch your step if you would. Any reason why the witness
12 cannot be excused?

13 MR. HUNTER - No, Your Honor.

14 MR. YARBOROUGH - No, sir.

15 THE COURT - Thank you, ma'am. You may be excused
16 as well. Applicant have another witness?

17 MR. YARBOROUGH - I'd like to re-call the
18 applicant if you don't mind briefly.

19 THE COURT - Well, let's go with the State and
20 let's see if you have any reply.

21 MR. HUNTER - The State has no witnesses, Your
22 Honor.

23 THE COURT - All right, call him briefly on a new
24 issue -- just a new issue.

25 MR. YARBOROUGH - Thank you.

1 JONQUAY RAKEE MCCOMBS, AFTER BEING PREVIOUSLY
2 SWORN, TESTIFIES AS FOLLOWS -

3 DIRECT EXAMINATION

4 BY MR. YARBOROUGH -

5 Q Mr. McCombs, did you hear your lawyer testify a moment
6 ago?

7 A Yes, sir.

8 Q Do you recall if you gave the alibi witness name and
9 address to her?

10 A Yes, I did. I gave all information to her. I told
11 her Lashawn Rose and Denyon (phonetic) Neely.

12 Q And did -- do you recall telling her that you were
13 interested in the search issue in this case?

14 A Yes, sir.

15 Q And did y'all discuss it?

16 A No, sir.

17 Q And you -- as I understand it, you learned about it in
18 the law library later on when you got to prison?

19 A Yes, sir.

20 Q And now based on her testimony, did you wish that you
21 could've exercised your right to have had a suppression
22 hearing?

23 A Yes, sir.

24 Q Okay. And so if you had it to do over again, you
25 would've -- you would've had a suppression hearing.

1 A Yes, sir.

2 Q Is there anything else you'd like to tell the Court?

3 A Um ---

4 Q Any other issues? If not, that's fine.

5 A No.

6 MR. YARBOROUGH - Okay. I don't have anything
7 further, Your Honor.

8 MR. HUNTER - Nothing else, Your Honor.

9 THE COURT - All right.

10 EXAMINATION

11 BY THE COURT -

12 Q Mr. McCombs, ---

13 A Yes, sir.

14 Q --- do you understand that in the event that you are
15 successful with your post-conviction relief application,
16 that the relief that I can grant is limited, and that what
17 I would be doing would say that you can go back and start
18 over? And by doing that, you could be subject to being
19 charged or go to trial on substantially -- more substantial
20 charges than of those to which you pled today, including
21 the life without the possibility of parole. Do you
22 understand that?

23 A Yes, sir.

24 COURT REPORTER - He needs to speak up.

25 A Yes, sir.

1 Q And you still wish for me to review your post-
2 conviction relief application?

3 A Yes, sir.

4 THE COURT - Okay, all right. Thank you, sir.
5 You may step down. Watch your step, sir.

6 MR. YARBOROUGH - Your Honor, I don't think
7 there's a whole lot more I can add. I think that makes a
8 case that he would've had an opportunity to win at a
9 suppression hearing and that suppression hearing he was not
10 given a chance to have and there's some discussion whether
11 or not it was -- how much information was, actually,
12 provided to him by his lawyer about -- about the search
13 issue, and I think he could've exercised that and I think -
14 - I'd like the Court to take that into consideration in
15 reviewing his application.

16 THE COURT - Thank you, sir.

17 MR. HUNTER - Your Honor, the State would rest on
18 the record.

19 THE COURT - All right, thank you very much. Good
20 luck to you, sir.

21 (END OF TRANSCRIPT)

22

23

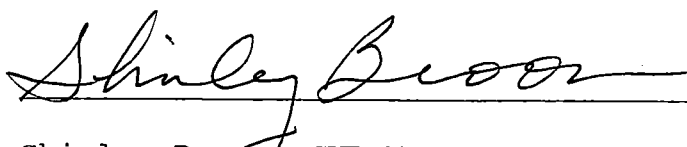
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C E R T I F I C A T E

I, Shirley Broom, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing 44 pages is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the proceedings of Jonquay Rakee McCombs vs. State of South Carolina, as taken by me in Court of Common Pleas for the Sixteenth Judicial Circuit on February 1, 2018, and provided by me this the 26th day of June, 2018.

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



Shirley Broom, CVR-M
Official Court Reporter,
Certified Verbatim Reporter, In and
for the State of South Carolina

State of South Carolina.,)
)
)
)
County of York.)

In the General Sessions
Of York

Case No. 2016-GS-46-01942
2016-GS-46-01943
2016-GS-46-01944

State of South Carolina.,)
)
Plaintiff.,)
)
-vs-)
)
Jonquay Rakee McCombs.,)
)
Defendant.)

Transcript of Record
Plea

July 15, 2016
York, South Carolina

B E F O R E:

The Honorable John C. Hayes, III., judge.

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Sixteenth Judicial Circuit
York and Union Counties

I-N-D-E-X

E-X-A-M-I-N-A-T-I-O-N

WITNESS

BY:

PAGE NO.

No witnesses were called to testify.

I N D E X

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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No Exhibits were received into the record.

1 (COURT IN SESSION, ON THE RECORD AT 11:28 AM.)

2 SOLICITOR SHELTON: Thank you, your Honor, may it
3 please the court. Before you is Jonquay McCombs, he's
4 represented by the Public Defender's office on five
5 indictment -- four indictments now, your Honor.

6 He spent six days in jail on Indictments 2016-GS-46-
7 0-1-9-4-2; 4-3 and 4-4. Those indictments in order are
8 assault and battery first degree; unlawful carry of a
9 pistol; and possession with intent to distribute crack
10 third offense.

11 He's entering a plea on all those indictments however
12 the third, 1944 is a -- he's pleading to a lesser charge,
13 the possession with intent to distribute second offense of
14 crack. In addition there is a possession of a pistol by a
15 felon that is being dismissed per the plea.

16 Your Honor, the negotiation from the State is a ten-
17 year sentence. The State has complied with the *Victim's*
18 *Rights Act* with respect to the assault and battery first
19 degree.

20 THE COURT: How old are you, Mr. McCombs?

21 MR. MCCOMBS: Twenty-nine, sir.

22 THE COURT: You represented by Ms. Russo?

23 MR. MCCOMBS: Yes, sir.

24 THE COURT: You satisfied with her service?

25 MR. MCCOMBS: Yes, sir.

1 THE COURT: You're charged with assault and battery
2 first degree. That carries up to ten years in jail.

3 Have you served any time already?

4 MS. RUSSO: Twenty-three days, your Honor.

5 THE COURT: It carries up to ten years in jail. It's
6 alleged that that occurred on May the 11th, 2016 when you
7 assaulted William White. You're charged with assault and
8 battery in the first degree.

9 Now that charge nor have the other charges been before
10 the Grand Jury of York County and you have the right to
11 have these charges reviewed by the Grand Jury. Do you wish
12 to have any or all of these charges reviewed by the Grand
13 Jury or give up that right?

14 You giving it up? All right, you need to answer.

15 MR. MCCOMBS: Yes, sir.

16 THE COURT: ,By his initials and signature he's waiving
17 presentment. You're also charged with distribution --
18 possessing with intent to distribute crack cocaine. You're
19 charged as a third offense, the State has reduced that to a
20 second offense. This carries a period -- a felony --
21 carries from five to thirty years in jail and it is a
22 serious offense. A serious offense is the type of offense
23 which if in your life time you receive three serious or a
24 combination of three serious and most serious offenses
25 you'd be subject to being incarcerated for life without

1 parole. That is a true life sentence.

2 Do you understand that?

3 MR. MCCOMBS: Yes, sir.

4 THE COURT: How do you plead to that charge?

5 MR. MCCOMBS: Guilty.

6 THE COURT: You're also charged with unlawful carrying
7 of a pistol. Its alleged that that occurred on October
8 16th, 2015 when you carried about your person a handgun in
9 violation of the laws of this state. Do you understand
10 that charge and the potential penalty of a year?

11 MR. MCCOMBS: Yes, sir.

12 THE COURT: How do you plead to that?

13 MR. MCCOMBS: Guilty.

14 THE COURT: As to these charges other than the
15 recommendation of a ten year sentence has anyone made any
16 other promise or threats to cause you today to enter your
17 plea of guilt?

18 MR. MCCOMBS: No, sir.

19 THE COURT: Are you today under the influence of
20 anything that would cause you to be intoxicated?

21 MR. MCCOMBS: No, sir.

22 THE COURT: Are you entering your plea today to this
23 set of charges, Mr. McCombs, freely and voluntarily?

24 MR. MCCOMBS: Yes, sir.

25 THE COURT: You have a right to a trial by a jury on

1 this set of charges and you are presumed innocent of the
2 charges until such time as the State is able to prove to a
3 jury your guilt beyond a reasonable doubt. As to the
4 charges you have the right to remain silent; the right to
5 confront the witnesses against you, and you have the right
6 to have your witnesses made to come to court to testify for
7 you. Do you understand you have these rights?

8 MR. MCCOMBS: Yes, sir.

9 THE COURT: Do you have any question about them?

10 MR. MCCOMBS: No, sir.

11 THE COURT: I advise you that by entering pleas of
12 guilt you're giving up these rights and you're also giving
13 up any defense to the charge. Do you understand that?

14 MR. MCCOMBS: Yes, sir.

15 THE COURT: As to each of these I ask again how do
16 you plead to possessing with intent to distribute crack
17 cocaine?

18 MR. MCCOMBS: Guilty.

19 THE COURT: How do you plead to assault and battery
20 first degree?

21 MR. MCCOMBS: Guilty.

22 THE COURT: And unlawful carrying of a pistol?

23 MR. MCCOMBS: Guilty.

24 THE COURT: All right. Tell me the facts.

25 SOLICITOR PORTER: Thank you, your Honor. Just for

1 the court's information it is a negotiated ten year
2 sentence just to be clear, your Honor.

3 With respect to 1942 the assault and battery first, on
4 May 11th of this year York PD responded to 217 Mighty Joe
5 Trail in York, a report of gun fire. There they met with
6 the victim William White who stated that the defendant
7 fired multiple shots which had struck his vehicle and
8 placed in fear of imminent serious bodily harm. Bullet
9 casings were recovered and photos were taken of damage to
10 his vehicle.

11 With respect to 1943 the unlawful carry, your Honor,
12 on August -- October 16th of 2015 at Railroad Avenue in
13 York a concerned citizen reported shots fired. Officers
14 stopped a vehicle that had been identified by the bystander
15 as a potential vehicle from which the bullets had been
16 fired. Officers smelled marijuana and then searched the
17 vehicle and found a handgun concealed under the driver's
18 seat and the defendant was the driver of that vehicle. He
19 was placed under arrest for unlawful carry at that time.

20 With respect to 1944, your Honor, that's the
21 possession with intent to distribute crack cocaine. On
22 February 6th of this year York PD responded to BayTree
23 Apartments. They knocked on a residence due to a call for
24 911. They smelled marijuana coming from one of the
25 residences and then initiated a knock and called for

1 Lashawn Rhodes. Officers continued the conversation and
2 ask to speak with Mr. McCombs. He came to the door and
3 admitted that his Crown Victoria had been illegally parked
4 outside of the apartment. They found -- The officers in a
5 further investigation ask the defendant about what was
6 inside the car and he admitted there was crack cocaine
7 inside that vehicle.

8 Officers initiated a search due to his permission and
9 the probable cause of his statement found two grams of
10 crack cocaine found in the car in addition to three hundred
11 and ninety dollars. Both the Crown Victoria and the three
12 hundred dollars were seized, your Honor.

13 He has a prior -- His prior drug offense is from 2014
14 being distribution of cocaine, two proximity charges. A
15 2010 possession of crack second, and 2008 possession of
16 crack first all of which substantiate the increase to a
17 second offense, your Honor, which he's pleading to today.

18 THE COURT: All right. Do you agree with that, Mr.
19 McCombs?

20 MR. MCCOMBS: Yes, sir.

21 THE COURT: Mr. McCombs, I accept your pleas. I find
22 they are freely voluntarily knowingly and intelligently
23 entered, entered with the advice of competent counsel with
24 whom you are satisfied. I find the facts support your
25 pleas and you signed pleas of guilt. I'll be glad to hear

1 from your attorney and then you.

2 Ms. Russo.

3 MS. RUSSO: Thank you, your Honor. This is a
4 negotiated plea so I won't belabor the point; however Mr.
5 McCombs does have a small request. His daughter's birthday
6 is today. It's her first birthday; they're having a party
7 for her, and he wants to know can we let him stay out so
8 that he could go to that party and turn himself afterwards.

9 I would add that for every single appointment we have
10 had he has come in. When he came in to the first
11 appointment on his drug charges he knew what he was facing
12 and he did still show up and he showed up every day since
13 then. He was here Monday this week and we weren't able to
14 fit his plea in. He came back today.

15 His parents are here. I just wonder if they would
16 attempt to get him here if there were any issue but he did
17 make that request, your Honor.

18 THE COURT: First birthday?

19 MS. RUSSO: Yes, your Honor.

20 THE COURT: Well, with these charges and the record he
21 has, he has shown up, but I just don't feel comfortable
22 giving that little twist so. I hate for you to miss it but
23 you gonna have to. The sentence on the drug charge is ten
24 years. All these are to run concurrent. On the assault
25 and battery first, ten years. On the pistol charge, one

1 year. These are all to run concurrent, giving you credit
2 for twenty-three days. Thank you.

3 MS. RUSSO: Thank you, your Honor.

4 (END OF TRANSCRIPT OF RECORD.)
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CERTIFICATE OF REPORTER

State of South Carolina)
)
County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 15th day July, 2017.

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

Wanda S. Nelson
Wanda Nelson, CVR-M
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021
DATE: July 15 / 2017

PLEA WAIVER FORM

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF GENERAL SESSIONS

vs.

= defendant's initials required

Jonquay Rakee Mccombs,
Defendant.

Total Time Served (days) 6 days

I want to plead guilty, no contest, or enter a plea under N.C. v. Alford to the charges listed below. I understand that the minimum and maximum penalties as well as some of the collateral consequences for the charges to which I am pleading are listed below:

True billed ☐ Waiver ☒

Indictment #: 2016GS4601944 CDR: 3039 Statute #: 44-53-375(B)

Original Charge: Dist/PWID/Manuf Crack 3rd

Pleading To: Dist/PWID/Manuf Crack 2nd (3015)

Misdemeanor ☐ Felony ☒

Penalty: NMT 30 years &/or \$50,000

☐ Non-Violent ☐ Violent ☒ Serious ☐ Most Serious ☐ No Parole ☐ Sex Offender Registry

☐ Mandatory GPS ☒ Increased Punishment for Future Offenses ☐ Murder Day for Day

JM α

True billed ☐ Waiver ☒

Indictment #: 2016GS4601943 CDR: 0044 Statute #: 16-23-0020

Original Charge: Unlawful Carrying of a Pistol

Pleading To: Unlawful Carrying of a Pistol

Misdemeanor ☒ Felony ☐

Penalty: NMT 1 year &/or \$1,000

☒ Non-Violent ☐ Violent ☐ Serious ☐ Most Serious ☐ No Parole ☐ Sex Offender Registry

☐ Mandatory GPS ☐ Increased Punishment for Future Offenses ☐ Murder Day for Day

JM α

True billed ☐ Waiver ☒

Indictment #: 2016GS4601942 CDR: 3412 Statute #: 16-03-0600(C)(1)

Original Charge: Assault & Battery, 1st Degree

Pleading To: Assault & Battery, 1st Degree

Misdemeanor ☐ Felony ☒

Penalty: NMT 10 years

☒ Non-Violent ☐ Violent ☐ Serious ☐ Most Serious ☐ No Parole ☐ Sex Offender Registry

☐ Mandatory GPS ☐ Increased Punishment for Future Offenses ☐ Murder Day for Day

JM α

List General Sessions Charges Being Dismissed: 2015A4620500272 Possession of a Firearm by Unlawful Person

List Pending General Sessions Charges not being resolved: N/A

List Prior Convictions: 7/2007 Poss MJ 28g or less; 5/2008 Poss 1g or less Meth, Poss MJ 28g (90d s/o 1 year probation); 9/2010 Poss 1g crack 2nd (3 years); 9/2010 ABHAN 10 s/o 3yrs; 10/2014 PWID Crack 1st, PWID Prox, PWID Prox (10 s/o 2yr probation);

YOA: ☐ Eligible ☒ Ineligible due to: ☒ Age ☐ Offense ☐ Other: Click here to enter text.

Currently on Probation? ☐ Yes ☒ No Is this plea a violation of the probation? ☐ Yes ☒ No

☒ I have agreed to plead guilty, no contest, or enter a plea under N.C. v. Alford as part of a plea arrangement. The Solicitor, my lawyer, and I have informed the court that the following contains all of the terms of conditions of my plea:

Type of Plea ☒ Guilty ☐ N.C. v. Alford ☐ Nolo
☐ Recommendation ☒ Negotiated ☐ Without Recommendation

☒ State is recommending or the negotiation is: 10 years

☒ This plea is not the product of any other promises or any threats whatsoever, except as indicated below:

☐ I understand that, upon entering a plea under N.C. vs. Alford, I will be treated as being guilty whether or not I admit that I am in fact guilty.

☐ I understand that a no contest plea is treated by the Court the same as a plea of guilty.

☐ The Solicitor is making a recommendation to the judge, as listed above. I understand the Judge is not required to accept the recommendation given by the Solicitor and the Judge may accept it, may go below the recommendation, or may go above the recommendation.

☒ This plea is a negotiated plea and the negotiation is listed above. I understand the Judge may refuse to accept the negotiation and that if the Judge refuses, the plea will not go forward.

☐ This plea is without negotiation and I understand I could receive from the minimum to the maximum sentence on each charge to which I am pleading guilty and that those sentences could also be run consecutive to other.

☒ I am not currently under the influence of any intoxicants, drugs, or narcotics.

☐ I currently DO take the following prescribed medications:

☒ I am entering my plea today freely, voluntarily, knowingly, and intelligently.

☐ I understand that I have the right to be represented by a lawyer at all stages of the proceedings. I can hire my own lawyer, or the court will appoint a lawyer for me if I cannot afford one. I understand an attorney would be of benefit to me, and since I am not an attorney, there is a danger in my representing myself. Understanding this, I give up this right.

☒ I understand that I have the right to plead not guilty and be tried by a jury, and that I am presumed innocent until such time as the jury is convinced of my guilty beyond a reasonable doubt. Understanding this, I give up that right.

☒ I understand I have the right to have the Court issue subpoenas to bring my witnesses and evidence to a trial at no cost to me. Understanding this, I give up that right.

☒ I understand I have the right to testify or remain silent at trial. Understanding this, I give up this right.

☒ My lawyer has reviewed with me all the factual and legal issues surrounding my case, including any defenses I may have and he or she has done everything I have asked him to do. I am satisfied with his or her services.

☒ I understand that I have the right to remain silent, that is, the right against self-incrimination. Understanding this, I give up this right.

☒ I understand that in a jury trial I have the right to see and hear all witnesses called to testify against me and to confront, cross-examine, and question them.

☒ I give up, for each of the charges listed above, my right to a jury trial, my right to a bench trial (trial by Judge with no jury), my right to confront and cross examine witnesses, my right to remain silent and not incriminate myself, and my right to produce evidence and to present a defense, including my right to testify on my own behalf.

☒ I understand that by my pleading to each charge, I am waiving all defenses, including, but not limited to the right to challenge any evidence the State may have used in its case against me and the voluntariness of any statements made to law enforcement.

☐ I understand that upon my conviction I may be ordered to pay restitution to any persons directly and proximately injured as a result of my commission of these crimes and that a civil judgement in favor of each person may be docketed against me and will be a lien against any real estate I own now or may own in the future.

☐ I understand that if I am not a citizen of the United States, my plea of guilty, no contest, or my plea under N.C. v. Alford may result in my deportation, exclusion from re-entry to the United States, and denial of naturalization and amnesty.

☒ I understand that I have 10 days within which to appeal this guilty plea.

☒ I understand that I am pleading guilty, no contest, or under N.C. v. Alford to the charges shown above.

☒ I now personally plead ☒ guilty; ☐ under N.C. v. Alford; ☐ no contest to the charges above.

Acknowledgement

I have read or have had read to me this form and have initialed each of the items that applies to my case. If I have an attorney, I have discussed each item with my attorney. By putting my initials next to the items in this form, I am indicating that I understand and agree with what is stated in each item that I have initialed. The nature of the charges, possible defenses, the effects of any prior convictions and enhancements, have been explained to me. I understand each of the rights outlined above, and I give up each of them to enter my plea.

Defendant's Signature: *Jessica M. Pessu*

Date: 6-22-16

Defense Counsel's Statement

I, the attorney for the defendant in the above entitled case, personally read and explained to the defendant the entire contents of this plea form and any addendum thereto. I discussed all charges, all discovery provided by the State, and possible defenses with the defendant and the consequences of the plea, including any immigration consequences. I personally observed the defendant fill in and initial each item, or read and initial each item to acknowledge his or her understanding and waivers. I observed the defendant date and sign this form and any addendum. I concur in the defendant's plea and waiver of constitutional rights.

Print Name: Jessica M. Pessu

Jessica M. Pessu
Attorney Signature

Bar # 100741

Date: 6-22-16

Circle One: (PD)

Retained

Appointed

Solicitor's Review

I have reviewed this form as completed by the Defendant or by the Defendant with his Defense Attorney for completeness and accuracy.

Solicitors' Signature: Don T. Porter Bar # 101574

Date: 6/21/2016

Judge's Confirmation

Upon consideration of the record, evidence or factual presentation offered, answers of defendant, and statements of the lawyer for the defendant and the prosecutor and the contents of this plea and waiver form, the undersigned finds that:

1. There is a factual basis for the entry of the plea,
2. The defendant is satisfied with his/her lawyer's legal services,
3. The defendant is competent to stand trial, and
4. The plea is the informed choice of the defendant and is made freely, voluntarily, knowingly, and intelligently.

The defendant's plea is hereby accepted by the Court.

Judge's Signature

Judge's Code: _____ Date: _____

YORK

JONOUAY RAKEE MCCOMBS

INDICTMENT/CASE#: 2016GS4601944
 A/W: 2016A4620500026
 Date of Offense: 02/06/2016
 S.C. Code §: 44-53-375(B)
 CDR Code #: 3039

A: John Quay McCombs

Race: Black Sex: M Age: 29

DOB: /1986 SS#:

Address:

City, State, Zip: York, SC 29745

DL# SID# SC01759780

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Dist/PWID/Manuf Crack 2nd

In violation of § 44-53-375(B) of the S.C. Code of Laws, bearing CDR Code # 3015

SENTENCE SHEET

ORIGINAL

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

 The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. SM (def.'s initials)

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

ATTEST:

Dan K. Porter 101574
 Daniel K. Porter, Assistant Solicitor SC Bar #

Defendant
 Defendant

Attorney for Defendant 100741
 Attorney for Defendant SC Bar #

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 7/15/16
☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
 Department of Corrections. 20 days
☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

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

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

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

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

§14-1-212 (Law Enforce. Funding) \$25 \$ 25§14-1-213 (Drug Court Surcharge) \$150 \$ 150

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

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

Proviso 90.5 (SCCA Surcharge) \$5 \$ _____

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

TOTAL \$ 275

Clerk of Court/Deputy Clerk: David Hamilton

Court Reporter: Wanda Nelson

SCCA 2-1-13 (3/2011)

 Presiding Judge: J. H. Ayers
 Judge Bar ID: 2067 Judge Code: 2049
 Sentence Date: 7-15-16

100

STATE OF SOUTH CAROLINA

COUNTY OF YORK

CERTIFIED TRUE COPY / INDICTMENT

2017 JUN -5 AM 9:38

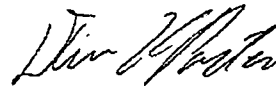
DIVISION 1
CLERK OF COURT

At a Court of General Sessions, convened on July 21, 2016, the Grand Jurors of York County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE CRACK COCAINE 3RD

The defendant, Jonquay Rakee Mccombs, did on or about February 6, 2016, in York County, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or possess with the intent to manufacture, distribute, dispense, deliver, or purchase crack cocaine, a cocaine base, such being his third or subsequent violation, in violation of the provisions of Section 44-53-370, all in violation of Section 44-53-375(B), *Code of Laws of South Carolina* (1976, as amended).

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



DANIEL K. PORTER
ASSISTANT SOLICITOR

WITNESSES

YPD

Witnessing Officer:

ARREST WARRANT NUMBER

2016A4620500026

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS46- 01944

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JULY 21, TERM 2016

THE STATE

VS.

JONQUAY RAKEE MCCOMBS

INDICTMENT FOR

DIST/PWID/MANUF CRACK 3RD

SC Code: § 44-53-375(B)
CDR Code: 3039

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

[Signature]
Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

PWID Crack 2nd

[Signature]
Defendant

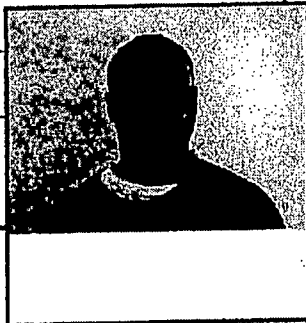
Witness:

L. Benfield court specialist
C.C.C. PLS. AND G.S.

ARREST WARRANT
2016A4620500026

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
YORK

THE STATE
against



JONQUAY RAKEE MCCOMBS

Address: YORK SC 29745-1139
Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 6-2 Weight: 170
L. State: SC DL#: [REDACTED]
DOB: [REDACTED]/1986 Agency ORI#: SC0460400
Prosecuting Agency: YORK POLICE DEPARTMENT
Prosecuting Officer: ANY LAWFUL OFFICER
Offense: PWID CRACK COCAINE 3RD OR MORE
Offense Code: 3039
Code/Ordinance Sec. 44-53-0375 (B) (3)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date: _____ Time: _____

RETURN

A copy of this arrest warrant was delivered to
defendant JONQUAY RAKEE MCCOMBS
on 2-3-16

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
POLICE DEPARTMENT
ROOSEVELT STREET
500
29745-0500

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
YORK

AFFIDAVIT

Personally appeared before me the affiant KYLE BRANDON CUMMINGS who
being duly sworn deposes and says that defendant JONQUAY RAKEE MCCOMBS
did within this county and state on 02/06/2016 to 02/06/2016 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of YORK)
in the following particulars:
DESCRIPTION OF OFFENSE: 44-53-0375 (B) (3) / PWID CRACK COCAINE 3RD OR MORE

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

ON 02/06/2016, ONE JONQUAY MCCOMBS DID KNOWINGLY AND UNLAWFULLY VIOLATE SC SECTION CODE 44-53-0375 (B) (3) BY POSSESSING
APPROX. 2 GRAMS OF CRACK COCAINE. JONQUAY MCCOMBS HAS NUMEROUS PRIOR DRUG CONVICTIONS, THEREFORE, MAKING THIS A
SUBSEQUENT OFFENSE, THIS INVESTIGATION CONSISTS OF BUT IS NOT LIMITED TO; LAW ENFORCEMENT INVESTIGATION, DEFENDANT
ADMISSION. AGAINST ALL LAWS MADE AND PROVIDED FOR.

Signature of Affiant

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
YORK

Affiant's Address 12 N ROOSEVELT ST YORK SC 29745
Affiant's Telephone (803) 684-4141

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on 02/06/2016 defendant JONQUAY RAKEE MCCOMBS

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

☐ County/ ☒ Municipality of YORK) as set forth below:

DESCRIPTION OF OFFENSE: DRUGS / MANUFACTURE, DISTRIBUTION, ETC. OF COCAINE BASE, 3RD
OR SUB. OFFENSE

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

Sworn to and subscribed before me

on 02/07/2016

Date: _____ Time: _____ (L.S.)

LEON YARD

Judge Code: 5945

ORIGINAL

Judge's Address 1675 YORK HWY
YORK SC 29745

Judge's Telephone 628-3095

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

Case: 20160144

FILED-RECEIVED
2016 FEB 19 AM 10:33

DAVID HAMILTON
P.C.C.P. & G.S.
YORK COUNTY, SC

CERTIFIED TRUE
2017 JUN -5
YORK COUNTY

103

CAROLINA

YORK

JONQUAY RAKEE MCCOMBS

INDICTMENT/CASE#: 2016GS4601942
 A/W: 2016A4620500128
 Date of Offense: 05/11/2016
 S.C. Code §: 16-03-0600(C)(1)
 CDR Code #: 3412

Name: John Quay McCombs

Race: Black

Sex: M

Age: 29

DOB: 5/1986

SS#: [REDACTED]

Address:

City, State, Zip: York, SC 29745

DL# [REDACTED]

SID# SC01759780

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or☒ PLEADS

TO: Assault & Battery, 1st Degree

In violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412

SENTENCE ORIGINAL #2

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

The charge is:

☐ As indicted,☐ Lesser Included Offense,☒ Defendant Waives Presentment to Grand Jury.

JM (def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☒ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Daniel K. Porter, Assistant Solicitor

101574
SC Bar #

Defendant

Attorney for Defendant

100741
SC Bar #

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 7/15/16☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 23 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

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

Presiding Judge: John H. HenryJudge Bar ID: 2967Judge Code: 20449Sentence Date: 7-15-16

Clerk of Court/Deputy Clerk:

David Hamilton

Court Reporter:

Wanda Nelson

SCCA/211 (03/2011)

104

STATE OF SOUTH CAROLINA
COUNTY OF YORK

CERTIFIED TRUE COPY
2017 JUN 15 AM 9:37

INDICTMENT

At a Court of General Sessions, convened on July 21, 2016, the Grand Jurors of York County present upon their oath:

ASSAULT & BATTERY, 1ST DEGREE

The defendant, Jonquay Rakee Mccombs, did on or about May 11, 2016, in York County, commit the crime of assault and battery in the first degree against the victim, William Dwayne White, in that the defendant offered or attempted to injure the victim with the present ability to do so and the act was accomplished by means likely to produce death or great bodily injury, all in violation of Section 16-03-0600(C)(1) *Code of Laws of South Carolina* (1976, as amended).

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



DANIEL K. PORTER
ASSISTANT SOLICITOR

WITNESSES

YPD

Witnessing Officer:

ARREST WARRANT NUMBER

2016A4620500128

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS46- 01942

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JULY 21, TERM 2016

THE STATE

VS.

JONQUAY RAKEE MCCOMBS

**INDICTMENT FOR
ASSAULT & BATTERY, 1ST DEGREE**

SC Code: § 16-03-0600(C)(1)
CDR Code: 3412

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

[Signature]
Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

[Signature]
Defendant

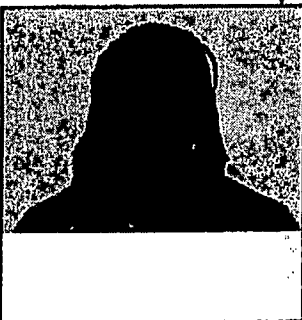
Witness:

[Signature]
C.C.C. PLS. AND G.S.

ARREST WARRANT
2016A4620500128

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
YORK

THE STATE
against



JONQUAY RAKEE MCCOMBS

Address: YORK SC 29745-1139
Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 6-2 Weight: 170
DL State: SC DL#: [REDACTED]
DOB: [REDACTED]/1986 Agency ORI#: SC0460400
Prosecuting Agency: YORK POLICE DEPARTMENT
Prosecuting Officer: ANY LAWFUL OFFICER
Offense: ASSAULT/ASSAULT & BATTERY 1ST
DEGREE Offense Code: 3412
Code/Ordinance Sec. 16-03-0600(C)(1)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)

Date: Date Time

RETURN

A copy of this arrest warrant was delivered to
defendant JONQUAY RAKEE MCCOMBS
on 5-27-16 @ 4PM @ 10:30 AM

Signature of Constable/Law Enforcement Officer

TURN WARRANT TO:
POLICE DEPARTMENT
ROOSEVELT STREET
500
29745-0500

05-12-2016 P01:58

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
YORK

AFFIDAVIT

Personally appeared before me the affiant K D SIBLEY
being duly sworn deposes and says that defendant JONQUAY RAKEE MCCOMBS
did within this county and state on 05/11/2016 to 05/11/2016
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of YORK
in the following particulars:
DESCRIPTION OF OFFENSE: 16-03-0600(C)(1) / ASSAULT/ASSAULT & BATTERY 1ST DEGREE

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

ON 05/11/2016 THE DEFENDANT, JONQUAY RAKEE MCCOMBS, DID UNLAWFULLY ATTEMPT TO CAUSE INJURY TO THE VICTIM, WILLIAM DEWAYNE WHITE. THIS WAS ACCOMPLISHED BY DISCHARGING A FIREARM AT THE VICTIM WHICH WAS LIKELY TO CAUSE DEATH OR GREAT BODILY INJURY TO THE VICTIM. THIS OFFENSE DID OCCUR WITHIN THE CITY LIMITS OF YORK, COUNTY OF YORK, SOUTH CAROLINA AND IS BASED ON POLICE INVESTIGATION, THE VICTIM'S VOLUNTARY STATEMENT AND THE VOLUNTARY STATEMENT OF A WITNESS. ALL AGAINST THE PEACE AND DIGNITY OF THE STATE AND LAWS MADE AND PROVIDED FOR.

Signature of Affiant

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
YORK

Affiant's Address 10 N ROOSEVELT ST YORK SC 29745
Affiant's Telephone (803) 684-4141

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on 05/11/2016 defendant JONQUAY RAKEE MCCOMBS

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

DESCRIPTION OF OFFENSE: ASSAULT / ASSAULT & BATTERY 1ST DEGREE

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

Sworn to and subscribed before me

on 05/12/2016

Date Time
JOHN D SHILLINGLAW (L.S.)

Judge Code: 8067

Judge's Address 12 N ROOSEVELT STREET
YORK SC 29745

Judge's Telephone (803) 628-3913

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

Case: 20160641

ORIGINAL

OF YORK

JONQUAY RAKEE MCCOMBS

A: John Quay McCombs

Race: Black

Sex: M

Age: 29

DOB: 1/19/86

SS#

Address:

City, State, Zip: York, SC 29745

DL#

SID# SC01759780

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Unlawful Carrying of a Pistol

In violation of § 16-23-0020 of the S.C. Code of Laws, bearing CDR Code # 0044

INDICTMENT/CASE#: 2016GS4601943

A/W: 2015A4620500271

Date of Offense: 10/16/2015

S.C. Code §: 16-23-0020

CDR Code #: 0044

ORIGINAL

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. 57 (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Daniel K. Porter, Assistant Solicitor 101574
SC Bar #Attorney for Defendant 100741
SC Bar #

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 7/15/16☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 23 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____ days/hours Public Service Employment

Total: \$_____ plus 20% fee: \$_____ Obtain GED ☐

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$_____

§14-1-206 (Assessments 107.5%) \$_____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$100

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$_____

§56-5-2995 (DUI Assessment) \$12 \$_____

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

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

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

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

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

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

Proviso 90.5 (SECJA Surcharge) \$5 \$_____

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

TOTAL \$125

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$_____ Beginning _____

\$_____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge: 2967

Judge Bar ID: 2049

Sentence Date: 7-15-16

Court/Deputy Clerk:

David Hamilton

reporter:

Wanda Nelson

SCCA/217 (03/2011)

108

STATE OF SOUTH CAROLINA
COUNTY OF YORK

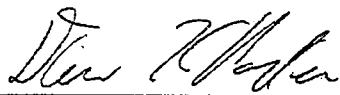
CERTIFIED TRUE COPY INDICTMENT
2017 JUN -5 AM 9:37

At a Court of General Sessions, convened on July 21, 2016, the Grand Jurors of York County present upon their oath:

UNLAWFUL CARRYING OF A PISTOL

The defendant, Jonquay Rakee Mccombs, did in York County, on or about October 16, 2015, willfully and unlawfully carry about his person a handgun, whether concealed or not, all in violation of Section 16-23-20, *Code of Laws of South Carolina* (1976, as amended).

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



DANIEL K. PORTER
ASSISTANT SOLICITOR

WITNESSES

YPD

Witnessing Officer:

ARREST WARRANT NUMBER

2015A4620500271

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS46-01943

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JULY 21, TERM 2016

THE STATE

VS.

JONQUAY RAKEE MCCOMBS

**INDICTMENT FOR
UNLAWFUL CARRYING OF A PISTOL**

SC Code: § 16-23-0020
CDR Code: 0044

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

[Signature]
Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

[Signature]
Defendant

Witness:

[Signature]
C.C.C. PLS. AND G.S.

110

ARREST WARRANT

2015A4620500271

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

YORK

THE STATE

against



JONQUAY RAKEE MCCOMBS

Address:

YORK SC 29745-1139

Phone: (803) 684-5154 SSN: [REDACTED]

Sex: M Race: B Height: 6-2 Weight: 170

DL State: SC DL#: [REDACTED]

DOB: [REDACTED]/1986 Agency ORI#: SC0460400

Prosecuting Agency: YORK POLICE DEPARTMENT

Prosecuting Officer: ANY LAWFUL OFFICER

Offense: WEAPONS UNLAWFUL CARRYING OF PISTOL

Offense Code: 0044

Code/Ordinance Sec. 16-23-0020,

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

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

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant JONQUAY RAKEE MCCOMBS

on 10-16-2015

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

YORK POLICE DEPARTMENT

ROOSEVELT STREET

BOX 500

29745-0500

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

YORK

AFFIDAVIT

Personally appeared before me the affiant TRINITY LLOYD REDMOND

being duly sworn deposes and says that defendant JONQUAY RAKEE MCCOMBS

did within this county and state on 10/16/2015 to 10/16/2015

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

in the following particulars:

DESCRIPTION OF OFFENSE: 16-23-0020, 16-23-0050 (A) (2) / WEAPONS UNLAWFUL CARRYING OF PISTOL

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

ON 10/16/2015 AT APPROXIMATELY 0256HRS, THE DEFENDANT, JONQUAY RAKEE MCCOMBS, DID WILLFULLY, INTENTIONALLY AND UNLAWFULLY VIOLATE SOUTH CAROLINA CODE OF LAWS SECTION 16-23-0020 BY: HAVING A CHARTER ARMS MODEL 2000, .38 CALIBER HANDGUN, SERIAL NUMBER 40790, IN HIS POSSESSION CONCEALED BENEATH THE DRIVER'S SEAT IN A VEHICLE HE WAS OPERATING WITHOUT HAVING A VALID CONCEALED WEAPONS PERMIT. THIS DID OCCUR AT #7 CHURCH STREET WITHIN THE CITY LIMITS OF YORK SOUTH CAROLINA ALL AGAINST THE PEACE AND DIGNITY OF THE CITY AND STATE AND AGAINST ALL LAWS MADE AND PROVIDED FOR.

Signature of Affiant

Affiant's Address 12 N ROOSEVELT ST / YORK PD

YORK SC 29745

Affiant's Telephone (803) 684-4141

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on 10/16/2015 defendant JONQUAY RAKEE MCCOMBS

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

☐ County/ ☒ Municipality of YORK) as set forth below

DESCRIPTION OF OFFENSE: WEAPONS / UNLAWFUL CARRYING OF PISTOL

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

Sworn to and subscribed before me)

on 10/16/2015)

LEON YARD (L.S.))

JUDGE

Judge Code: 5945

Judge's Address 1675 YORK HWY

YORK SC 29745

Judge's Telephone 628-3095

Issuing Court: ☐ Magistrate☐ Municipal☐ Circuit

ORIGINAL

Case: 20151331

RECEIVED
2015 OCT 17 AM 12
YORK, SOUTH CAROLINA
DEFENDANT: JONQUAY RAKEE MCCOMBS
OFFENSE: WEAPONS UNLAWFUL CARRYING OF PISTOL
ARRESTED BY: [REDACTED]
DATE OF ARREST: 10/16/2015

10:28:57 Tuesday, June 20, 2017

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 06/20/17
OMCOMITA RELEASE DATE SCREEN C056427
SCDC# > 342963 LOC: KERSHAW
MCCOMBS, JONQUAY RAKEE SCDC CLASSIFICATION...: NON-VIOLENT
OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY...: N
SEXUAL PREDATOR...: NOT APP
DNA STATUS...: COMPLETED
GPS REQUIREMENT...: N
PREA DECISION...:
PREA PERP...: NONE
PREA VICTIM...: NONE
CURRENT SENTENCE: 010-00-000 CONSECUTIVE SENTENCE ...: N
010-00-000 CURRENT SENT START DATE: 06/22/2016
PROJECTED COMPLETION DATES
MAXOUT DATE ...: 11/29/2021 CURRENT EWC ..: 3 F 5
YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC
INITIAL PAROLE DATE: 06/28/2018 NEXT PAROLE HEARING DATE: 06/28/2018
TOTAL GT DAYS EARNED: 000110 LABOR CREW/WORK PROG DATE: 99/99/9999
TOTAL EARNED WORK CREDITS ..: 000087 LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS: 000000 DRUG DISC W/IN 24 MONTHS
TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 06/02/21
TOTAL SERVICE TIME EARNED ...: 000363 ISS.....:
PFKEYS: 5:HISTORY OF DATE CHANGES

South Carolina Department of Corrections

Classification Summary Reports

Date: Tuesday, June 20, 2017

Classification Summary Reports

Inmate Number

Classification Summary Report for MCCOMBS, JONQUAY RAKEE :

CLASSIFICATION SUMMARY REPORT DATED 06/20/2017

SCDC# 00342963

MCCOMBS, JONQUAY RAKEE

FBI# 654283RC3

OFFENDER ADULT-STRAIGHT
TYPE: SENTENCE

INSTITUTION: KERSHAW

SECURITY/CUST: 2 MINIMUM IN

CURR INCARC 10 YRS 0 MOS 0
SENT: DAYS

VICTIM
WITNESS

MED
CLASS:

INST
RESTRICT: NO RESTRICTION

MENTAL NMH (NO MENTAL
CLASS: HEALTH TRE

CURRENT NO CURRENT
PROGRAM: PROGRAM

SEX REGISTRY: N

DNA: C

AGE: 30



RESIDENT
STABILITY:

NA

DORMROOMBUNK_CODE: PA 0052 T

PROJ MAXOUT
DATE: 11/29/2021

PROJ PAROLE
DATE: 06/28/2018

EWC
JOB: WARDKEEPER

ASSIGNMENT: BUILDING #2

EWC
LEVEL: 3F5 EEC LEVEL:

EDUC
PGM: NO CURR EDUC PROGRAM

PREVIOUS NUMBERS:

NO PREVIOUS NUMBERS

CURRENT OFFENSES	YRS	MOS	SENTENCE		START	V/NV	CAT	INDICT
			DYS	COUNTY				
ASSAULT & BATTERY 1ST	10	0	0	YORK	06/22/2016	N	3	16GS46-01942
CARRY PROHIBITED WEAPON	1	0	0	YORK	06/22/2016	N	3	16GS46-01943
MANU/DIST CRACK-2ND OFF	10	0	0	YORK	06/22/2016	N	3	16GS46-01944

COMPLETED OFFENSES	YRS	MOS	SENTENCE		START	SENTENCE		
			DYS	COUNTY		V/NV	CAT	INDICT
POSS METH/COC BASE 2ND	3	0	0	YORK	06/29/2010	N	2	09GS4603368
ASSL&BATTERY-HIGH&AGG NAT	3	0	0	YORK	06/29/2010	N	3	10GS46022968

PRIOR COMMITMENTS OVER 90 DAYS:

INMATE HAS NO PRIORS

OFFENSES UNDER PREVIOUS NUMBER:

NO PREVIOUS OFFENSES

DETAINERS (HOLD,WANTED,NOTIFY):

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

PREVIOUS ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

02/05/2017	USE,POSS NARC,MARIJ,UNAUTH DRUG,INHALANT	CONVICTED	MAJOR DISC. HEARING
09/22/2011	POSSESSION OF CONTRABAND	DISMISSED	OTHER ACTION TAKEN/INFORM
09/22/2011	POSSESSION OF CONTRABAND	CONVICTED	ADMINISTRATIVE RESOLUTION
06/12/2011	POSSESSION OF CONTRABAND	CLOSED	OTHER ACTION TAKEN/INFORM
04/19/2011	POSSESSION OF CONTRABAND	CLOSED	OTHER ACTION TAKEN/INFORM

PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:

NO PREVIOUS NON-ASSAULTIVE DISCIPLINARIES HISTORY

HISTORY OF MOVEMENTS:

02/05/2017	KERSHAW	INCARCERATED	ADMINISTRATIVE
11/14/2016	GOODMAN	INCARCERATED	ADMINISTRATIVE
09/12/2016	WALDEN	INCARCERATED	ADMINISTRATIVE
09/12/2016	KIRKLAND	INCARCERATED	MEDICAL
09/08/2016	WALDEN	INCARCERATED	ADMINISTRATIVE
09/08/2016	CENTRAL OFFICE ANNEX	INCARCERATED	MEDICAL
08/31/2016	WALDEN	INCARCERATED	ADMINISTRATIVE
07/19/2016	KIRKLAND	INCARCERATED	NEW ADMISSION
02/01/2012	UNK	RELEASE	EXPIRATION OF SENTENCE
12/13/2011	CATAWBA	INCARCERATED	ADMINISTRATIVE
12/13/2011	KERSHAW	INCARCERATED	MEDICAL
09/27/2011	CATAWBA	INCARCERATED	LABOR CREW
09/27/2011	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
09/12/2011	CATAWBA	INCARCERATED	LABOR CREW
09/07/2011	CATAWBA	INCARCERATED	ADMINISTRATIVE
09/07/2011	KERSHAW	INCARCERATED	MEDICAL
08/16/2011	CATAWBA	INCARCERATED	LABOR CREW
08/16/2011	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL

07/27/2011	CATAWBA	INCARCERATED	LABOR CREW
07/27/2011	KERSHAW	INCARCERATED	MEDICAL
06/28/2011	CATAWBA	INCARCERATED	ADMINISTRATIVE
06/27/2011	KIRKLAND	INCARCERATED	MEDICAL
06/03/2011	CATAWBA	INCARCERATED	LABOR CREW
05/24/2011	CATAWBA	INCARCERATED	ADMINISTRATIVE
05/23/2011	KIRKLAND	INCARCERATED	MEDICAL
05/18/2011	CATAWBA	INCARCERATED	LABOR CREW
05/18/2011	KERSHAW	INCARCERATED	MEDICAL
04/26/2011	CATAWBA	INCARCERATED	LABOR CREW
04/26/2011	KERSHAW	INCARCERATED	MEDICAL
03/21/2011	CATAWBA	INCARCERATED	LABOR CREW
12/16/2010	EVANS	INCARCERATED	ADMINISTRATIVE
09/28/2010	KIRKLAND	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
WARDKEEPER	02/13/2017	-		3F5
WARDKEEPER	02/10/2017	02/12/2017	CUSTODY REVIEW	2F5
HORTICULTURIST (GRND)	01/23/2017	02/05/2017	INSTIT TRANSFER	2F5
HORTICULTURIST (GRND)	09/02/2016	01/22/2017	LATERAL TRANSFER	2F5
LABOR CREW/WORK PROGRAM	09/12/2011	02/01/2012	RELEASED/PAROLED	2F5
LABOR CREW/WORK PROGRAM	06/03/2011	09/11/2011	LATERAL TRANSFER	2F5
LABOR CREW/WORK PROGRAM	03/23/2011	06/02/2011	LATERAL TRANSFER	2F5
LITERACY PROGRAM	03/08/2011	03/21/2011	INSTIT TRANSFER	2F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
BONUS 4-7 HRS/WK	09/14/2011	02/01/2012	RELEASED/PAROLED
BONUS 4-7 HRS/WK	06/02/2011	09/12/2011	INSTIT TRANSFER

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

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Source : SummaryReport.jsp

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[Version: 1.4.12 Built: 02/03/2015 11:57:23 AM Time: 10:29:50 AM]

STATE OF SOUTH CAROLINA

COUNTY OF YORK
STATE VS.

JONQUAY RAKEE MCCOMBS

AKA: John Quay McCombs

Race: Black Sex: M Age: 29

DOB: 05/11/1986 SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: York, SC 29745

DL# [REDACTED] SID# SC01759780

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Assault & Battery, 1st Degree

In violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. JM (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Daniel K. Porter, Assistant Solicitor 101574 SC Bar # [REDACTED]
 Defendant [REDACTED]
 Attorney for Defendant [REDACTED] 100741 SC Bar # [REDACTED]

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 7/15/16☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 23 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

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

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

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

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

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

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

Proviso 90.5 (SECIA Surcharge) \$5 \$ _____

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

TOTAL \$ 125

Clerk of Court/Deputy Clerk: David Hamilton

Court Reporter: Wanda Nelson

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS4601942
 A/W: 2016A4620500128
 Date of Offense: 05/11/2016
 S.C. Code §: 16-03-0600(C)(1)
 CDR Code #: 3412

SENTENTIAL ORIGINAL

☐ CONVICTED OF or ☒ PLEADS

Presiding Judge: [REDACTED]
 Judge Bar ID: 2967 Judge Code: 20449
 Sentence Date: 7-15-16

STATE OF SOUTH CAROLINA

COUNTY OF YORK
STATE VS.

JONQUAY RAKEE MCCOMBS

AKA: John Quay McCombs

Race: Black

Sex: M

Age: 29

DOB: 01/24/1986

SS#: [REDACTED]

Address:

City, State, Zip: York, SC 29745

DL# [REDACTED]

SID# SC01759780

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or☒ PLEADS

TO: Unlawful Carrying of a Pistol

In violation of § 16-23-0020 of the S.C. Code of Laws, bearing CDR Code # 0044

INDICTMENT/CASE#: 2016GS4601943

A/W: 2015A4620500271

Date of Offense: 10/16/2015

S.C. Code §: 16-23-0020

CDR Code #: 0044

SENTENCE SHEET
ORIGINAL☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☐ As indicted, ☐ Lesser Included Offense,☒ Defendant Waives Presentment to Grand Jury.

SM (def.'s initials)

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

ATTEST:

Daniel K. Porter, Assistant Solicitor

101574
SC Bar #

Defendant

Attorney for Defendant

100741
SC Bar #

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 7/15/16☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 23 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk

during probation.

Recipient: _____

*Fine: _____ \$ _____

\$14-1-206 (Assessments 107.5%) \$ _____

\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100

\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____

\$56-1-286 (DUI Breath Test) \$25 \$ _____

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

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

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

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

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCGJA Surcharge) \$5 \$ _____

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

TOTAL

\$ 175

Clerk of Court/Deputy Clerk:

David Hamilton

Court Reporter:

Wanda Nelson

SCCA/217 (03/2011)

Presiding Judge:

Judge Bar ID: 2967

Sentence Date: 7-15-16

Judge Code: 2049

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STATE OF SOUTH CAROLINA

COUNTY OF YORK
STATE VS.

JONQUAY RAKEE MCCOMBS

AKA: John Quay McCombs

Race: Black

Sex: M

Age: 29

DOB: 02/06/1986

SS#: 0112-22-1112

Address:

City, State, Zip: York, SC 29745

DL#: 0001-10010

SID# SC01759780

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Dist/PWID/Manuf Crack 2nd

In violation of § 44-53-375(B) of the S.C. Code of Laws, bearing CDR Code # 3015

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

The charge is:

☐ As indicted,☐ Lesser Included Offense,☒ Defendant Waives Presentment to Grand Jury.

SM (def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☒ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Daniel K. Porter, Assistant Solicitor

101574
SC Bar #

Defendant

Attorney for Defendant

100741
SC Bar #

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/15/16☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 27 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS Recipient: *Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

\$	
\$	
\$	100
\$	
\$	
\$	
\$	
\$	
\$	25
\$	150
\$	
\$	
\$	
\$	
\$	
\$	
\$	
\$	
\$	275

Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther:

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

Clerk of Court/Deputy Clerk:

David Hamilton

Court Reporter:

Wanda Wilson

SCCA/217 (03/2011)

Presiding Judge:

Judge Bar ID:

Sentence Date:

Judge Code:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2016GS4601944

A/W:

2016A4620500026

Date of Offense:

02/06/2016

S.C. Code §:

44-53-375(B)

CDR Code #:

3039

SENTENCE SHEET

ORIGINAL

☐ CONVICTED OF or☒ PLEADS

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