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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Lexington County
Honorable J. Mark Hayes, Circuit Court Judge

WILLIAM P. DEATON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001883

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

-vs-

WILLIAM PATRICK DEATON,

defendant.

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TRANSCRIPT OF RECORD

09-GS-32-2769

January 27, 2010
Lexington, South Carolina

B E F O R E:

HONORABLE R. KNOX MCMAHON, Judge; and a jury.

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

J. ANGELA GARRICK, Senior Asst. Solicitor
CHRISTOPHER G. SAMELLAS, Senior Asst. Solicitor
Attorneys for the State

SARAH A. HAHN, Asst. Public Defender
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Circuit Court Reporter

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COURT'S EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
1	Voir dire (defense)	14	

INDEX OF WITNESSES

(Court Reporter's Note: There was no direct or cross examination of any witnesses).

1 (The following proceedings are reported on
2 January 27, 2010.)

3 THE COURT: Solicitor, you may call your next
4 case for trial.

5 MS. GARRICK: Thank you, Your Honor. May it
6 please the Court. Your Honor, we call Indictment
7 Number 2009-GS-32-2769, the State versus William Patrick
8 Deaton. Your Honor, he is indicted and charged with
9 armed robbery. He is represented by Ms. Hahn. The
10 State is calling this case for trial.

11 (Hands to Court.)

12 THE COURT: Thank you. Thank you very much,
13 Solicitor.

14 Madame Clerk, has the panel been placed under
15 oath?

16 CLERK: No, sir.

17 THE COURT: Would you please place them under
18 oath today for this proceeding.

19 CLERK: Yes, sir.

20 (The jury panel is duly sworn.)

21 THE COURT: Was any member of the jury panel
22 unable to take the oath? If so, please stand.

23 (There is no response.)

24 THE COURT: Ladies and gentlemen, the State
25 has called its next case for trial, the case of the

1 State versus William Patrick Deaton. The reason I have
2 you placed under oath is because I am going to ask you a
3 series of questions, and you should be under oath during
4 this proceeding. I ask that your answers be full,
5 complete, and accurate.

6 In a moment I am going to publish or read the
7 indictment to you. The indictment is simply the formal
8 charging document by which an individual is placed on
9 notice of the charges that have been brought against him
10 or her.

11 The indictment is not evidence. It is merely
12 allegations and is in no sense evidence of any of the
13 allegations contain therein. The reason I publish or
14 read the indictment to you is because I will ask you
15 certain questions concerning any knowledge you may have
16 about the event alleged in the indictment.

17 Indictment Number 2009-GS-32-02769, it reads
18 that William Patrick Deaton did in Lexington County,
19 South Carolina, on or about August 2, 2009, knowingly
20 and willfully, while armed with a deadly weapon, to wit,
21 a knife, did feloniously take from the person or
22 presence of a clerk with the Circle K. convenience store
23 by means of force, threats, or intimidation, goods or
24 monies being described as follows: U.S. currency with
25 the intent to deprive the owner of the use of such

1 property in violation of 16-11-330(a) of the South
2 Carolina Code of Laws. That is an indictment for armed
3 robbery with a deadly weapon.

4 The State in this case is represented by
5 Assistant Solicitors Garrick and Samellas. If you
6 would please stand and introduce yourselves to the jury
7 panel.

8 MS. GARRICK: I'm Angela Garrick. This is
9 co-counsel, Chris Samellas.

10 THE COURT: Thank you, Solicitors. The
11 defense is represented by Ms. Hahn and Mr. Mauldin. If
12 y'all would please stand and introduce yourself and your
13 client to the jury panel.

14 MS. HAHN: My name is Sara Hahn. This is
15 another attorney from my office, David Mauldin, and this
16 is our client William Deaton.

17 THE COURT: Thank you, Ms. Hahn. Is any
18 member of the jury panel related by blood or marriage or
19 close personal friends of either Assistant Solicitor
20 Garrick or Samellas or any employee of the Lexington
21 County Solicitor's Office? If so, please stand.

22 (Juror stands.)

23 THE COURT: Yes, Mr. Zelenka.

24 PROSPECTIVE JUROR: Yes, sir. I am familiar
25 with members of the Solicitor's Office.

1 THE COURT: Mr. Samellas?

2 PROSPECTIVE JUROR: Mr. Samellas used to work
3 in my office.

4 THE COURT: He worked at the A.G.'s office?

5 PROSPECTIVE JUROR: Yes, sir.

6 THE COURT: Did he work with you?

7 PROSPECTIVE JUROR: Not for me but I would say
8 with me.

9 THE COURT: Do you hold that against him?

10 PROSPECTIVE JUROR: What was the question?

11 THE COURT: Mr. Zelenka, could you be a fair
12 and impartial juror to both the State and the defense in
13 this case?

14 PROSPECTIVE JUROR: I believe I could.

15 THE COURT: Thank you, Mr. Zelenka. You may
16 be seated. That was number 185, ladies and gentlemen.

17 Is any member of the jury panel related by
18 blood or marriage or close personal friends of either
19 Ms. Hahn or Mr. Mauldin, the attorneys for the defendant
20 in this matter? If so, please stand.

21 (There is no response.)

22 THE COURT: Has any member of the jury panel
23 or any member of your immediate family ever been
24 represented by or prosecuted by either Ms. Garrick,
25 Mr. Samellas or any employee of the Lexington County

1 Solicitor's Office? If so, please stand.

2 (Juror stands.)

3 THE COURT: Your number and name, please?

4 PROSPECTIVE JUROR: One-twelve, Jennifer
5 McLean.

6 THE COURT: Would you step up here for me,
7 please, Ms. McLean.

8 (The following bench conference with the
9 Court, counsel, and the juror is reported.)

10 THE COURT: I remember now, Ms. McLean. You
11 talked to me the other day.

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: This is 112, Jennifer McLean.
14 Tell me your situation.

15 PROSPECTIVE JUROR: I have a brother, who I
16 don't have a relationship with, but I'm certain he has
17 had dealings with the Solicitor's Office before. I
18 don't know the details about it. I don't have a
19 relationship with him, but I just felt I needed to bring
20 that to your attention.

21 THE COURT: Dealings as being prosecuted by
22 them?

23 PROSPECTIVE JUROR: I believe so.

24 THE COURT: What is your brother's name?

25 PROSPECTIVE JUROR: Kenneth Reid, Jr.

1 THE COURT: Now you have no relationship with
2 him?

3 PROSPECTIVE JUROR: Not at all. I haven't
4 spoken to him in five years.

5 THE COURT: The fact that there is family
6 relationship, kinship, could you still be a fair and
7 impartial juror to both the State and the defense?

8 PROSPECTIVE JUROR: Definitely, yes, sir.

9 THE COURT: Thank you very much. You may stay
10 with us.

11 (The bench conference is concluded.)

12 THE COURT: Has any member of the jury panel
13 ever been represented or any member of your immediate
14 family ever been represented by either Ms. Hahn or
15 Mr. Mauldin? If so, please stand.

16 (There is no response.)

17 THE COURT: Is any member of the jury panel
18 related by blood or marriage or close personal friends
19 of William Patrick Deaton, the defendant in this case?
20 If so, please stand.

21 (There is no response.)

22 THE COURT: The indictment alleges an incident
23 which occurred on August 2, 2009, at a Circle K.
24 convenience store.

25 Where is that located at, Solicitor?

1 MS. GARRICK: Your Honor, in Pine Ridge.

2 THE COURT: In Pine Ridge, the Town of Pine
3 Ridge in Lexington County. Does any member of the jury
4 panel have any knowledge about the case? If so, please
5 stand.

6 (There is no response.)

7 THE COURT: Does any member of the jury panel
8 have any bias or prejudice towards the parties, that
9 being the State or the defendant, or towards the subject
10 matter involved in the case? If so, please stand.

11 (There is no response.)

12 THE COURT: Has any member of the jury panel
13 heard or know anything about the case from any source
14 whatsoever? If so, please stand.

15 (Juror stands.)

16 THE COURT: Yes, ma'am, your name and number?

17 PROSPECTIVE JUROR: Nakiasha White,
18 Number 178.

19 THE COURT: Would you step up here for me,
20 please.

21 (The following bench conference with the
22 Court, counsel, and the juror is reported.)

23 THE COURT: Good morning, Ms. White.

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: Tell me your situation.

1 PROSPECTIVE JUROR: I used to work at Circle
2 K. about a month ago or six weeks ago. I used to work
3 at the same Circle K.

4 THE COURT: How long did you work there?

5 PROSPECTIVE JUROR: I heard the word about the
6 store, and I know three witnesses.

7 THE COURT: Given the fact you have been
8 employed at that same Circle K., have you heard anything
9 about the case?

10 PROSPECTIVE JUROR: I just know what happened.

11 THE COURT: All right. I am going to set you
12 aside for the trial of this case. I will ask you to
13 please not discuss any of this with any your fellow
14 jurors; all right?

15 PROSPECTIVE JUROR: All right.

16 THE COURT: Number 178 is set aside. Thank
17 you very much.

18 (The bench conference is concluded.)

19 THE COURT: I am going to call a list of names
20 of potential witnesses in the trial of this case, ladies
21 and gentlemen. The question of course is: Is any
22 member of the jury panel related by blood or marriage or
23 close personal friends with any of these individuals
24 whose names I call.

25 I would ask if any of these individuals are

1 present when your name is called, if you would please
2 stand and face the jury panel. I would advise the jury
3 panel that all of the witnesses may not be present
4 during this proceeding. They are not required to be
5 present during this proceeding; however, many of them
6 may be here.

7 Carmen Slice. Ms. Slice to my front far
8 right. Thank you. Thank you very much, Ms. Slice.
9 Samantha Weatherspoon. This is Ms. Weatherspoon to my
10 front right. James Mosley. Angie Mosley. Lieutenant
11 Josh Shumpert, South Congaree Police Department. That's
12 the first five.

13 The next five witnesses -- again, ladies and
14 gentlemen, the question is whether or not you are
15 related by blood or marriage or close personal friends
16 with any of these individuals.

17 Chief Elizabeth Wright, Pine Ridge Police
18 Department. This is Chief Wright to my front right.
19 Detective David Day, Lexington County Sheriff's
20 Department.

21 Detective Stephen Jennings Gamble, Lexington
22 County Sheriff's Department. Sergeant Olyn Sexton,
23 Lexington County Sheriff's Department. Deputy Brian
24 Travis, Lexington County Sheriff's Department.

25 The next five names: Deputy Clayton Anderson,

1 Deputy Walter Todd, both with the Lexington County
2 Sheriff's Department. Carrie Smith. Deputy Shannon
3 Lovell, Lexington County Sheriff's Department. And Beth
4 Harmon.

5 (Juror stands.)

6 THE COURT: Yes, ma'am, your number and name,
7 please?

8 PROSPECTIVE JUROR: One-thirty-six, Tiffany
9 Roach.

10 THE COURT: This is 136, Ms. Roach?

11 PROSPECTIVE JUROR: Yes, sir.

12 THE COURT: Which name did you stand up for,
13 Ms. Roach?

14 PROSPECTIVE JUROR: Stephen Gamble.

15 THE COURT: Steven Gamble. Are you related or
16 friends?

17 PROSPECTIVE JUROR: Our parents are good
18 friends.

19 THE COURT: Your parents?

20 PROSPECTIVE JUROR: My in-laws and his parents
21 are very good friends.

22 THE COURT: Your in-laws and Detective
23 Gamble's parents are good friends; is that correct?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: That's how you know Detective

1 Gamble?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Give me a time frame of about how
4 long you have known Detective Gamble?

5 PROSPECTIVE JUROR: Eleven years.

6 THE COURT: The fact that your in-laws and his
7 parents have that friendship, could you still be a fair
8 and impartial juror to both the State and the defense in
9 this case?

10 PROSPECTIVE JUROR: Yes, sir.

11 THE COURT: Thank you very much, Ms. Roach.

12 You may be seated. You may stay with us.

13 Did I call the name, Beth Harmon, Lexington
14 County Sheriff's Department?

15 (There is no response.)

16 THE COURT: Any further requested voir dire
17 from the State?

18 MS. GARRICK: No Your Honor.

19 THE COURT: From the defense?

20 MS. HAHN: Yes, Your Honor.

21 (Hands to Court.)

22 MS. HAHN: I ask that a copy be made a Court's
23 exhibit.

24 (Court's Exhibit Number 1 is marked for
25 purposes of the record.)

1 THE COURT: Has any member of the jury panel
2 or any member of your immediate family or close personal
3 friend ever been a victim of a violent crime? If so,
4 please stand.

5 (Juror stands.)

6 THE COURT: Yes, ma'am, your number and name,
7 please?

8 PROSPECTIVE JUROR: Michelle Prevost, 130.

9 THE COURT: Would you step up here for me,
10 please.

11 (The following bench conference with the
12 Court, counsel, and the juror is reported.)

13 THE COURT: Good morning. Tell me your
14 situation. It's Ms. Prevost; is that correct?

15 PROSPECTIVE JUROR: That is correct. It was
16 before I married my husband, but his brother was
17 murdered.

18 THE COURT: And what time frame?

19 PROSPECTIVE JUROR: I've been married for
20 twelve years, and it was approximately maybe ten years
21 before that.

22 THE COURT: The fact that occurred with your
23 husband's brother prior to your marriage to your
24 husband, could you still be a fair and impartial juror
25 to both the State and the defense?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Thank you. You may stay with us.
3 Thank you very much.

4 (The bench conference is concluded.)

5 THE COURT: Is any member of the jury panel
6 related by blood or marriage or close personal friends
7 with any employee of the law enforcement agencies
8 involved in this case, which I believe are the South
9 Congaree Police Department, the Pine Ridge Police
10 Department and the Lexington County Sheriff's
11 Department? If you are related by blood or marriage or
12 close personal friends with any employees of those
13 agencies, please stand.

14 (Juror stands.)

15 THE COURT: Mr. Zelenka. That's number 185.
16 Is it a relation or friendship?

17 PROSPECTIVE JUROR: Acquaintance with members
18 of the Sheriff's Department.

19 THE COURT: The fact that you have that
20 relationship with individuals with the Lexington County
21 Sheriff's Department, could you still be a fair and
22 impartial juror to both the State and the defense in
23 this matter?

24 PROSPECTIVE JUROR: I believe I could.

25 THE COURT: Thank you, Mr. Zelenka. Any

1 others?

2 (There is no response.)

3 THE COURT: Thank you. Is any member of the
4 jury panel or a member of your immediate family
5 presently or in the past members of or financial
6 supporters of or otherwise involved or connected with
7 any group that has as its primary concern the promotion
8 of law enforcement or victim's rights?

9 These groups would include but not be limited
10 to M.A.D.D., S.A.D.D., C.A.V.E. or C.A.D.R.E. If you
11 are a member of or a financial supporter of either now
12 or in the past, please stand.

13 (Jurors stand.)

14 THE COURT: Your number and name, please
15 ma'am?

16 PROSPECTIVE JUROR: Fifty, Pamela Gleaton. I
17 have been a member of M.A.D.D. and supported them
18 financially for years.

19 THE COURT: The fact that you have that
20 membership, could you still be a fair and impartial
21 juror to both the State and the defense in this case?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: You may stay with us.
24 Mr. Zelenka?

25 PROSPECTIVE JUROR: Yes. I was a financial

1 supporter of M.A.D.D., and I was on the Board of
2 Directors of the South Carolina Victims' Assistance
3 Network for approximately five years until last year.

4 THE COURT: The fact that you were a
5 financial supporter or are a financial supporter of
6 M.A.D.D. and did have that connection with the victims'
7 assistance network, could you still be a fair and
8 impartial juror to both the State and the defense in
9 this case?

10 PROSPECTIVE JUROR: I think I could.

11 THE COURT: You may be seated. Yes, ma'am,
12 your number and name, please?

13 PROSPECTIVE JUROR: Number 123, Pascale
14 Palmer. I have been a many-year supporter of M.A.D.D.

15 THE COURT: The fact you have been a supporter
16 of M.A.D.D. for many years, could you still be a fair
17 and impartial juror to both the State and the defense in
18 this case?

19 PROSPECTIVE JUROR: Yes, sir, I believe so.

20 THE COURT: Thank you. You may stay with us.

21 Has any member of the jury panel or any member
22 of your immediate family ever sought assistance from,
23 been employed by, or performed volunteer work for a
24 center or program whose primary purpose is the
25 prevention of violent crime? If so, please stand.

1 (Juror stands.)

2 THE COURT: You may as well stay standing,
3 Mr. Zelenka. Yes, sir, Mr. Zelenka.

4 PROSPECTIVE JUROR: Member of -- could you ask
5 the question again?

6 THE COURT: Yes, sir. Have you or any member
7 of your immediate family ever sought assistance from,
8 been employed by or performed volunteer work for any
9 center or program whose primary purpose is the
10 prevention of violent crime?

11 PROSPECTIVE JUROR: Yes, myself. That would
12 be volunteer work with the South Carolina Victims'
13 Assistance Network and volunteer work for C.A.V.E. back
14 many years ago.

15 THE COURT: The fact that you did work with
16 those organizations, could you still be a fair and
17 impartial juror to both the State and the defense in
18 this case?

19 PROSPECTIVE JUROR: I believe so.

20 THE COURT: Thank you, Mr. Zelenka.

21 Ladies and gentlemen of the jury panel, since
22 you have been here for jury duty, have you seen or heard
23 anything that has led you to form some opinion on this
24 case one way or the other? If so, please stand.

25 (There is no response.)

1 THE COURT: I would decline to ask the other
2 voir dire questions. You can certainly make that a part
3 of the record at the appropriate time, Ms. Hahn.

4 MS. HAHN: Thank you, Your Honor.

5 THE COURT: Finally, ladies and gentlemen of
6 the jury, does any member of the jury panel -- do you
7 know any reason whatsoever why you feel like you would
8 not be a fair and impartial juror in the trial of this
9 case for both the State and the defense? If so, please
10 stand.

11 (There is no response.)

12 THE COURT: Madame Clerk, I find our panel is
13 qualified, except for that one young lady I set aside.
14 I believe that was number 178.

15 CLERK: Yes, sir.

16 THE COURT: If you would give us a panel,
17 please. The strikes are --

18 PROSPECTIVE JUROR: Your Honor?

19 THE COURT: Yes, sir.

20 PROSPECTIVE JUROR: Just to clarify my
21 response to one of the earlier questions, employed by
22 the Prevention of Violent Crime. I'm not sure this
23 individual knows, but I am employed by the Attorney
24 General's Office, the criminal division. I think that
25 would be responsive of that question.

1 THE COURT: Thank you. Thank you,
2 Mr. Zelenka. I believe the strikes are five and ten; is
3 that correct, Solicitor?

4 MS. GARRICK: Yes, Your Honor.

5 THE COURT: If you would give the panel
6 instructions as to what to do, Madame Clerk, if their
7 names are called.

8 CLERK: If I call your name, if you would
9 bring all your belongings with you. Come up to the
10 front, face out toward the audience, and I will ask the
11 attorneys, What say you for the State? What say you for
12 the defense? If they choose to seat you on the jury,
13 you would come over here and have a seat in the jury
14 box.

15 THE COURT: Come all the way up to the podium.
16 Come all the way up to this podium and turn around and
17 face back out toward your peers and wait for further
18 instructions.

19 CLERK: Juror number 163, Joye Terry.

20 (The juror, a white female, comes forward.)

21 CLERK: What say you for the State?

22 MS. GARRICK: Please present the juror.

23 CLERK: What say you for the defense?

24 MS. HAHN: Please excuse the juror.

25 CLERK: If you will return to your seat,

1 ma'am. Juror number 79, Teresa Holland.

2 (The juror, a black female, comes forward.)

3 CLERK: What say you for the State?

4 MS. GARRICK: Please present the juror.

5 CLERK: What say you for the defense?

6 MS. HAHN: Please seat the juror.

7 CLERK: Have a seat in the jury box, ma'am.

8 Juror number 27, Gretchen Crosswell.

9 (The juror, a white female, comes forward.)

10 THE COURT: Ms. Holland, you are a paralegal?

11 PROSPECTIVE JUROR: Yes, sir.

12 CLERK: What say you for the State?

13 MS. GARRICK: Please present the juror.

14 CLERK: What say you for the defense?

15 MS. HAHN: Please seat the juror.

16 CLERK: Have a seat in the jury box, ma'am.

17 Juror number 112, Jennifer McLean.

18 (The juror, a white female, comes forward.)

19 CLERK: What say you for the State?

20 MS. GARRICK: Please excuse the juror.

21 CLERK: Return to your seat, ma'am. Juror

22 number 122, Janet Owen.

23 (The juror, a white female, comes forward.)

24 CLERK: What say you for the State?

25 MS. GARRICK: Please present the juror.

1 CLERK: What say you for the defense?

2 MS. HAHN: Please excuse the juror.

3 CLERK: Return to your seat, please, ma'am.

4 Juror number 89, Janice Johnson.

5 (The juror, a white female, comes forward.)

6 CLERK: What say you for the State?

7 MS. GARRICK: Please present the juror.

8 CLERK: What say you for the defense?

9 MS. HAHN: Please excuse the juror.

10 CLERK: Return to your seat, ma'am. Juror
11 number 56, Tracy Squires.

12 THE COURT: That's 156?

13 CLERK: I'm sorry, 156.

14 (The juror, a white male, comes forward.)

15 CLERK: What say you for the State?

16 MS. GARRICK: Please present the juror.

17 CLERK: What say you for the defense?

18 MS. HAHN: Please seat the juror.

19 CLERK: Have a seat in the jury box, please,
20 sir. Juror number 50, Pamela Gleaton.

21 (The juror, a white female, comes forward.)

22 CLERK: What say you for the State?

23 MS. GARRICK: Please present the juror.

24 CLERK: What say you for the defense.

25 MS. HAHN: Please excuse the juror.

1 CLERK: If you will return to your seat,
2 ma'am. Juror number 114, Benjamin Mellon.

3 (The juror, a white male, comes forward.)

4 CLERK: What say you for the State?

5 MS. GARRICK: Please present the juror.

6 CLERK: What say you for the defense?

7 MS. HAHN: Please seat the juror.

8 CLERK: Have a seat in the jury box, sir.

9 Juror number 130, Michelle Prevost.

10 (The juror, a white female, comes forward.)

11 CLERK: What say you for the State?

12 MS. GARRICK: Please present the juror.

13 CLERK: What say you for the defense?

14 MS. HAHN: Please excuse the juror.

15 CLERK: If you will return to your seat,

16 ma'am. Juror number 40, Gary Ensman.

17 (The juror, a white male, comes forward.)

18 CLERK: What say you for the State?

19 MS. GARRICK: Please present the juror.

20 CLERK: What say you for the defense?

21 MS. HAHN: Please seat the juror.

22 CLERK: Have a seat in the jury box, sir.

23 Juror number 46, Scarlett Gibson.

24 (The juror, a white female, comes forward.)

25 CLERK: What say you for the State?

1 MS. GARRICK: Please present the juror.

2 CLERK: What say you for the defense?

3 MS. HAHN: Please seat the juror.

4 CLERK: Have a seat in the jury box, ma'am.

5 Juror number 128, Chadwick Pound.

6 (The juror, a white male, comes forward.)

7 CLERK: What say you for the State?

8 MS. GARRICK: Please present the juror.

9 CLERK: What say you for the defense?

10 MS. GARRICK: Please excuse the juror.

11 CLERK: Return to your seat, please, sir.

12 Juror 152, Eugene Smith.

13 (The juror, a white male, comes forward.)

14 CLERK: What say you for the State?

15 MS. GARRICK: Please present the juror.

16 CLERK: What say you for the defense?

17 MS. HAHN: Please seat the juror.

18 CLERK: Have a seat in the jury box, sir.

19 Juror 136, Tiffany Roach.

20 (The juror, a white female, comes forward.)

21 CLERK: What say you for the State?

22 MS. GARRICK: Please present the juror.

23 CLERK: What say you for the defense?

24 MS. HAHN: Please excuse the juror.

25 CLERK: If you will return to your seat,

1 ma'am. Thank you. Juror number 49, John Gilstrap.
2 (The juror, a white male, comes forward.)
3 CLERK: What say you for the State?
4 MS. GARRICK: Please present the juror.
5 CLERK: What say you for the defense?
6 MS. HAHN: Please seat the juror.
7 CLERK: Have a seat in the jury box, sir.
8 Juror number 124, Cynthia Parrill.
9 (The juror, a white female, comes forward.)
10 CLERK: What say you for the State?
11 MS. GARRICK: Please present the juror.
12 CLERK: What say you for the defense?
13 MS. HAHN: Please seat the juror.
14 CLERK: Have a seat in the jury box, ma'am.
15 Juror 123, Pascale Palmer.
16 (The juror, a white female, comes forward.)
17 CLERK: What say you for the State?
18 MS. GARRICK: Please present the juror.
19 CLERK: What say you for the defense?
20 MS. HAHN: Please excuse the juror.
21 CLERK: If you will return to your seat,
22 ma'am. Juror number 39, Abigail Elrod.
23 (The juror, a white female, comes forward.)
24 CLERK: What say you for the State?
25 MS. GARRICK: Please present the juror.

1 CLERK: What say you for the defense?

2 MS. HAHN: Please seat the juror.

3 CLERK: If you will have a seat in the jury
4 box, ma'am. Juror number 80, Charlie Hooker.

5 (The juror, a white female, comes forward.)

6 CLERK: What say you for the State?

7 MS. GARRICK: Please present the juror.

8 CLERK: What say you for the defense?

9 MS. HAHN: Please seat the juror.

10 CLERK: Have a seat in the jury box, ma'am.

11 Juror number 110, Brent McGee.

12 (The juror, a white male, comes forward.)

13 CLERK: What say you for the State?

14 MS. GARRICK: Please present the juror.

15 CLERK: What say you for the defense?

16 MS. HAHN: Please excuse the juror.

17 CLERK: If you will return to your seat, sir.

18 Juror number 53, Michael Golson.

19 (The juror, a black male, comes forward.)

20 CLERK: What say you for the State?

21 MS. GARRICK: Please excuse the juror.

22 CLERK: If you will return to your seat,
23 please, sir. Juror number 13, Phyllis Dillinger.

24 (The juror, a white female, comes forward.)

25 CLERK: What say you for the State?

1 MS. GARRICK: Please present the juror.

2 CLERK: What say you for the defense?

3 MS. HAHN: Please seat the juror.

4 CLERK: Have a seat in the jury box.

5 Alternates, Your Honor?

6 THE COURT: One alternate. The strikes are
7 one and two.

8 CLERK: Juror Number 82, Sueann Huff.

9 (The juror, a white female, comes forward.)

10 CLERK: What say you for the State?

11 MS. GARRICK: Please present the juror.

12 CLERK: What say you for the defense?

13 MS. HAHN: Please seat the juror.

14 CLERK: Have a seat in the jury box, please.

15 (The jury is impaneled at 10:12 a.m.)

16 THE COURT: Any motions regarding the jury
17 selection process from the State?

18 MS. GARRICK: No, Your Honor.

19 THE COURT: From the defense?

20 MS. HAHN: No, Your Honor.

21 THE COURT: Thank you. Thank you very much.

22 Ladies and gentlemen of the jury panel,
23 momentarily I am going to ask you to step to your jury
24 room while I determine the fate of your colleagues and
25 see what I need to tell them and see where we are at

1 administratively and time wise.

2 During this brief recess, I advise you, do not
3 discuss this case with anyone. That includes your
4 fellow jurors or anyone else. If anyone tries to talk
5 with you about this case during this recess, please let
6 me know immediately.

7 Remember to keep an open mind about the case.
8 Do not begin any deliberations until I instruct you to
9 do so. That would only be after you have heard all the
10 evidence and testimony in the case, the closing
11 arguments by the attorneys, and the charge or the
12 instruction on the law by the Court.

13 Ms. Holland, I am going to ask you or thank
14 you for volunteering to serve as the forelady of this
15 jury panel. I will explain to you more about your
16 duties and responsibilities in that regard.

17 With that being said, if you would please go
18 with your bailiff to the jury room. Thank you. Thank
19 you very much.

20 (The jury retires to the jury room.)

21 THE COURT: Any pretrial matters, Madame
22 Solicitor?

23 MS. GARRICK: Yes, sir, we do.

24 THE COURT: Do y'all need to do paperwork in
25 that regard?

1 MS. GARRICK: Yes, sir, Your Honor.

2 MS. HAHN: Your Honor, I believe everything
3 has been completed.

4 THE COURT: Ma'am?

5 MS. HAHN: I believe everything has been
6 completed.

7 THE COURT: I'm sorry. Step up here. I
8 couldn't quite hear you, Ms. Hahn.

9 (Whereupon there is a bench conference off the
10 record.)

11 THE COURT: I have a note to take up in the
12 first case called for trial prior to determining whether
13 or not I will select a jury in another trial this
14 morning. In other words, the second trial. So I'm not
15 able to release you yet this morning.

16 This matter will probably take me 15 or 20
17 minutes. You can take a break during that period of
18 time. I would ask you to please return to the courtroom
19 by 10:35. You may remain in the courtroom if you choose
20 to do so. If not, just do not return until 10:35.
21 Thank you. Thank you very much.

22 (The jury panel is excused.)

23 (Whereupon there is a recess in the
24 proceedings.)

25 THE COURT: Solicitor?

1 MS. GARRICK: Your Honor, it's my
2 understanding that Mr. Deaton has actually changed his
3 mind. He wishes to enter a guilty plea to the charge
4 for trial, and we have a sentencing sheet here.

5 THE COURT: If you would come around, please.

6 (Pause.)

7 THE COURT: Madame Clerk, would you please
8 place Mr. Deaton under oath.

9 CLERK: Yes, sir.

10 WILLIAM PATRICK DEATON is first
11 duly sworn.

12 THE COURT: Whenever I ask you any questions,
13 Mr. Deaton, if you would speak up clearly and loudly so
14 I can hear what you have to say; all right?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Ms. Hahn, do you represent William
17 Patrick Deaton?

18 MS. HAHN: Yes, Your Honor.

19 THE COURT: Have you explained to him the
20 charge in the indictment and his rights, including his
21 right to a jury trial?

22 MS. HAHN: I have, Your Honor.

23 THE COURT: In your opinion does he understand
24 these things?

25 MS. HAHN: Yes, Your Honor.

1 THE COURT: How does he indicate he wishes to
2 plead to armed robbery, guilty or not guilty?

3 MS. HAHN: Guilty, Your Honor.

4 THE COURT: Thank you. Are you William
5 Patrick Deaton?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Before I can accept a plea of
8 guilty, it's necessary for me to determine if your plea
9 is being given freely and voluntarily; therefore, I need
10 to ask you some questions.

11 If you do not understand my questions, please
12 let me know. I will try to explain them to you. If at
13 any time you wish to talk to your attorney, please
14 advise me, and I will allow you to do so. Do you
15 understand?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: How old are you, Mr. Deaton?

18 THE DEFENDANT: Forty-one years old.

19 THE COURT: Forty-one?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: How far did you go in school?

22 THE DEFENDANT: Ninth grade.

23 THE COURT: What type of work do you do?

24 THE DEFENDANT: I've been a painter for 22
25 years.

1 THE COURT: Today are you under the influence
2 of any medication, drugs, or alcohol?

3 THE DEFENDANT: Just the ones prescribed.
4 It's just mental medication.

5 THE COURT: What is that medication?

6 THE DEFENDANT: It's Remeron, Clonidine,
7 Trazodone, and Paxil.

8 THE COURT: All right. Can you hand that --
9 can I look at that document, Ms. Hahn --

10 MS. HAHN: Yes, Your Honor.

11 THE COURT: -- that you were referring to. Do
12 you have any objection, Solicitor?

13 MS. GARRICK: No, Your Honor.

14 THE COURT: Thank you.

15 (Hands to Court.)

16 THE COURT: Let me ask you, Ms. Hahn,
17 Solicitor, has the defendant been ordered to submit to a
18 mental examination to determine his competency to stand
19 trial?

20 MS. HAHN: No, Your Honor.

21 THE COURT: Do you have any questions
22 concerning his competency?

23 MS. HAHN: I do not, no.

24 THE COURT: Have you had any problems
25 communicating with Mr. Deaton in any manner?

1 MS. HAHN: Your Honor, we have communicated on
2 multiple occasions when I first got his case and in
3 preparation for this trial and in discussing the plea
4 offer. At no time have I ever questioned his
5 competency.

6 THE COURT: Thank you. Thank you very much.
7 I have been handed up a document entitled Memo from
8 Mental Health Triage Services. It lists several
9 diagnoses.

10 One, polysubstance dependency based on
11 crack -- I take it that's crack cocaine -- pain
12 medication, marijuana, and alcohol. Further,
13 depression. Third, anxiety disorder. He takes the
14 following medications, Trazodone. That is for
15 depression and sleep?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Is that a prescribed medication?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you take it according to your
20 prescription?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Does it negatively impact your
23 thinking ability in any way?

24 THE DEFENDANT: Not that I know of, no, sir.

25 THE COURT: Clonidine is for anxiety and

1 nightmares; is that correct?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you take that according to a
4 prescription?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Does it negatively affect your
7 thinking ability in any way?

8 THE DEFENDANT: No, sir?

9 THE COURT: Remeron, also for depression and
10 anxiety. Do you take that according to a prescription?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Does it negatively affect your
13 thinking ability in any manner?

14 THE DEFENDANT: No, sir.

15 THE COURT: It appears in the past you took
16 Elavil, but that has now been discontinued?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you take Paxil?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: That is for reports of panic
21 attacks?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you have panic attacks?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you take this medication

1 according to your prescription?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Does it negatively affect your
4 thinking ability in any manner?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you know what you are doing
7 here today?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Tell me what you are doing.

10 THE DEFENDANT: I'm here to plead guilty to
11 this trial.

12 THE COURT: What are you charged with?

13 THE DEFENDANT: Armed robbery.

14 THE COURT: Where are we having the
15 proceedings?

16 THE DEFENDANT: In a courtroom here in
17 Lexington County.

18 THE COURT: And you understand we have
19 selected a jury for your trial?

20 THE DEFENDANT: Yes, sir, I understand.

21 THE COURT: And you have participated in that
22 selection with your lawyer?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: After the jury was selected, the
25 Court was informed you wanted to enter a plea of guilty;

1 is that right?

2 THE DEFENDANT: That's exactly true, yes, sir.

3 THE COURT: Do you still want to go forward
4 with that plea?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Besides your prescribed medication
7 that you told the Court you are taking according to your
8 prescription, are you under the influence of any other
9 medications, drugs, or alcohol?

10 THE DEFENDANT: No, sir.

11 THE COURT: Are you today aware of any
12 physical, emotional, or nervous problem that might keep
13 you from understanding what you are doing today?

14 THE DEFENDANT: No, sir.

15 THE COURT: Any time you have any questions of
16 me, please ask me, Mr. Deaton. Do you understand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You heard your attorney tell me
19 that she has explained to you the charge in the
20 indictment, the possible punishment, and your
21 constitutional rights and that you understand these
22 things; is that correct?

23 THE DEFENDANT: That's true, yes, sir.

24 THE COURT: The State called for trial and
25 handed up an indictment, 2009-GS-32-2769. It is a true

1 bill indictment for armed robbery. It reads that
2 William Patrick Deaton did in Lexington, South Carolina,
3 on or about August 2, 2009, knowingly and willfully
4 while armed with a deadly weapon, to wit, a knife, did
5 feloniously take from the person or presence of a clerk
6 with the Circle K. convenience store by means of force,
7 threats, or intimidation good or monies being described
8 as follows, U.S. currency, with the intent to deprive
9 the owner of the use of such property in violation of
10 section 16-11-330(a) of the Code of Laws of South
11 Carolina, 1976 as amended.

12 The maximum possible punishment for that is
13 thirty years. The minimum/mandatory is ten years. Do
14 you understand that charge and that potential
15 punishment?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: When you plead guilty, you give up
18 certain important constitutional rights. First, you
19 give up your right to remain silent. That is your right
20 against self incrimination, your right to say nothing at
21 all. You cannot be compelled or made to testify or to
22 provide evidence against yourself. Do you understand?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Second, you give up your right to
25 have a jury trial. We have already selected a jury for

1 the trial of the case, Mr. Deaton; that is, your jury
2 trial right is the right to have the jury decide whether
3 or not you are guilty beyond a reasonable doubt.

4 They would base their decision upon evidence
5 which the State presents and on any evidence you might
6 wish to introduce. In a trial you would be presumed to
7 be innocent, and the State would have to produce
8 evidence that would convince all 12 members of the jury
9 that you were guilty beyond a reasonable doubt. Do you
10 understand?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Third, you give up your right to
13 confront and be confronted by the witnesses against you.
14 That is your right to see, hear, and have your attorney
15 cross examine any witnesses that may be called by the
16 State against you during the trial, and you have the
17 right to subpoena and call witnesses on your own behalf.
18 Do you understand?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you understand all of these
21 rights I have explained to you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand that when you
24 plead guilty, you give up all of these constitutional
25 rights?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Is that what you want to do?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand that you will
5 not get a jury trial if you plead guilty?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Understanding then the nature of
8 the charge against you, armed robbery, and the potential
9 maximum consequence of the guilty plea, a punishment of
10 up to 30 years, how do you wish to plead to this charge,
11 guilty or not guilty?

12 THE DEFENDANT: Guilty, sir.

13 THE COURT: Do you understand when you plead
14 guilty, you admit the truth of the charge that has been
15 placed against you?

16 THE DEFENDANT: Yes, sir, I do.

17 THE COURT: Mr. Deaton, you may have defenses
18 to this charge. I don't know. I don't know whether you
19 do or not. Do you understand that if you plead guilty,
20 you will waive or give up any defenses you have to this
21 charge?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You may have given an
24 incriminating statement in this case, a confession. I
25 don't know if you did or not. If you plead guilty, do

1 you understand that you waive or give up the right to
2 contest or challenge whether such statement was given
3 freely and voluntarily in accordance with your
4 constitutional rights?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Did you commit this offense?

7 THE DEFENDANT: Yes, sir, I did.

8 THE COURT: Tell me what you did.

9 THE DEFENDANT: I walked in the store and
10 asked the lady for the money and jumped across the
11 counter, took the register, and the money out of it.

12 THE COURT: Were you armed with a knife at the
13 time?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Did you present that knife to the
16 lady?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Solicitor, have there been any
19 plea negotiations in this case?

20 MS. GARRICK: No, Your Honor.

21 THE COURT: Is that correct, Ms. Hahn?

22 MS. HAHN: Yes, Your Honor.

23 THE COURT: Is that your understanding,
24 Mr. Deaton? There are no plea negotiations?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you still wish to plead guilty?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Has anyone promised you anything
4 or held out any hope of reward to get you to plead
5 guilty?

6 THE DEFENDANT: No, sir.

7 THE COURT: Has anyone threatened you or used
8 force to get you to plead guilty?

9 THE DEFENDANT: No, sir.

10 THE COURT: Has anyone used any pressure or
11 intimidation to cause you to plead guilty?

12 THE DEFENDANT: No, sir.

13 THE COURT: Have you had enough time to make
14 up your mind about whether or not you want to plead
15 guilty?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: In other words, nobody is twisting
18 your arm making you plead guilty today?

19 THE DEFENDANT: No, sir.

20 THE COURT: Are you pleading guilty of your
21 own free will and accord, Mr. Deaton?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Standing to your left is your
24 attorney, Ms. Hahn. I want to ask you some questions
25 about her. Are you satisfied with the manner in which

1 your lawyer has advised you and represented you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you talked with your lawyer
4 as often and for as long as you feel necessary for her
5 to properly represent you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you need anymore time to talk
8 with your lawyer?

9 THE DEFENDANT: No, sir.

10 THE COURT: Have you understood your talks
11 with your lawyer?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Has your lawyer done everything
14 for you that you feel like she could have done or should
15 have done?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Has your lawyer done anything in
18 this case that you feel like she should not have done?

19 THE DEFENDANT: No, sir.

20 THE COURT: Are you totally and completely
21 satisfied with your lawyer's services?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you have any complaint you want
24 to make about your lawyer, the solicitor, or any police
25 officers involved in your case?

1 THE DEFENDANT: No, sir.

2 THE COURT: Mr. Deaton, have you understood my
3 questions?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Is there anything you would like
6 to ask me about what we have just been over?

7 THE DEFENDANT: No, sir.

8 THE COURT: Do you understand that you have
9 the right to appeal your guilty plea and the sentence of
10 the Court and that you or your lawyer must do so within
11 ten days?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Thank you. Solicitor.

14 MS. GARRICK: Thank you, Your Honor. May it
15 please the Court. Your Honor, this did happen August 2,
16 2009, down at the Circle K. convenience store in Pine
17 Ridge, which is in Lexington County.

18 Your Honor, it was about 1:30, 1:45 on a
19 Sunday afternoon. There were two clerks working, Carmen
20 Slice, who is here today in the green dress, and
21 Samantha Weatherspoon, who is in the blue and black
22 sweater.

23 They were both working there. Samantha went
24 out to take a break at the front of the store; so Carmen
25 was working the cash register. Your Honor, the

1 defendant drove up in a white vehicle.

2 He had his girlfriend with him. Subsequently
3 we found out her name is Carrie Smith. He came into the
4 store. He went into the rest room. He came out of the
5 rest room. He got a Sprite.

6 He waited in line at the counter. There were
7 customers there. There were children there. He waited
8 his turn, and when he came up to the register, Carmen
9 spoke to him. She recognized him as a frequent customer
10 there in the store.

11 In fact, Samantha had seen him come in, and
12 she knew him to be a customer. They didn't know his
13 name. They didn't have any relationship with him, but
14 they knew that he and his girlfriend had been in there
15 several times in the past.

16 When Carmen asked him for 99 cents for the
17 Sprite, he smiled at her, put his right hand into his
18 pocket, and he pulled out a blue-handled knife. He used
19 his left hand. He opened this (indicating). It's
20 basically a razor blade, Your Honor, on a handle.

21 He said, "You need to open the register." She
22 stepped back, hollered, raised her hands. Your Honor,
23 at that time Carmen was a little over eight months
24 pregnant. She was terrified.

25 He came across the counter with this knife.

1 The video shows he was very, very close to her and her
2 unborn baby. She backs up. He backs her in the corner.
3 He goes for the register. He's trying to pull the
4 bottom part of the cash drawer off the register.

5 Carmen runs out. Her screams have attracted
6 other customers that were in the parking lot. There
7 were people on the witness list you mentioned, Jimmy and
8 Angie Mobley, who were present. They heard and saw what
9 was going on.

10 Samantha heard the clerk, her friend Carmen
11 holler; so she gets on the phone with 9-1-1. Your
12 Honor, in a matter of minutes, he is out of the store.
13 Carmen actually ran all the way out of the store to the
14 right of the store.

15 Lo and behold, the defendant runs behind her
16 with the cash register, passes her. She turns around
17 and comes back toward the store. Samantha is on the
18 phone with 9-1-1. There are witnesses hollering and
19 screaming. It's chaos, Your Honor.

20 The defendant hears -- we believe and our
21 testimony would have been today -- hears Samantha on the
22 phone with 9-1-1. She is telling law enforcement what
23 he looks like and what direction he is traveling.

24 Your Honor, Samantha said that he starts
25 chasing her with this open-blade knife. She goes up by

1 the gas pumps, and she ends up coming back in the store.
2 His codefendant, his girlfriend, Carrie Smith, pulls up
3 in the car.

4 He tries to get in the car with her. He can't
5 get the door open. She leaves him. Witnesses at the
6 scene get her tag. When she leaves in that car, the
7 defendant actually trips and falls, drops the register,
8 drops his knife.

9 Then he bangs on the register again, trying to
10 get into it, is able to pull out the bills. He takes
11 the bills and he runs away. Of course, Pine Ridge
12 responds, the county responds. They take statements
13 from all witnesses. They collect the knife.

14 Your Honor, they collect the video from the
15 store that shows Mr. Deaton in four different camera
16 angles. It is Mr. Deaton on video. They interview --
17 his girlfriend comes back. She knows law enforcement
18 and the witnesses have her tag.

19 She comes back within five minutes. She even
20 beats our detective on the case at the scene. So she is
21 there. She is interviewed. She gives law enforcement
22 his name, where he lives, which was with her. They get
23 a statement from her.

24 They let her go. Later that same evening,
25 they go to her house to check on her but really to see

1 if he has come home. When they go to the house, she
2 says, "No, he is not here." They said, "Do you mind
3 if we come in?" She says, "No, not at all. Come on
4 in."

5 When they step in, the county, Detective
6 Gamble, she whispers, "He is hiding in the back
7 bedroom." They go and sure enough, the defendant Rusty
8 (sic) Deaton is hiding in a back bedroom.

9 They arrest him. They verbally Mirandize him.
10 He has the same shoes on, the white shoes, New Balance
11 shoes, with blue on them you can see on the video. They
12 give him his rights. He's questioned about, "What did
13 you do with the money?"

14 He said, "It's buried in the woods." They
15 take him back to the store, look in the woods. In the
16 meantime, Carrie Smith is arrested for accessory after
17 the fact of armed robbery.

18 She is taken to jail. She gives her arresting
19 officer the money, says he has given her the money, the
20 \$145, and also some crack that he had bought for those
21 couple of hours he had been gone.

22 About \$200 was stolen from the store. Law
23 enforcement was able to get \$145 back. When other
24 officers tell Detective Gamble that she has got the
25 money, she's got the crack, Detective Gamble asks Rusty

1 again, "Come on. We are in the woods for nothing. She
2 has got the money. He was trying to protect her."

3 They go back to the Sheriff's Department. He
4 is arrested. He is booked and he's actually given an
5 interview. He gives -- a Miranda form was signed,
6 witnessed by Rusty Deaton in his own handwriting.

7 He writes out most of what happened about the
8 robbery and that he, in fact, did have a knife and he
9 did rob them. He indicates in the time he was gone, he
10 went and hid in the woods for a while and that he hooked
11 up with a dope dealer, got some drugs, and the dope
12 dealer took him back home.

13 Those are all the facts, Your Honor. At the
14 appropriate time, I would like to tell you his record
15 and have victim impact.

16 THE COURT: Yes, ma'am, prior record.

17 MS. GARRICK: Your Honor, he has a July of
18 2005 possession of cocaine, a criminal conspiracy, and
19 unlawful carrying of a weapon. That weapon, just for
20 your information, was a pistol. He has a D.U.S. from
21 December of 2005 and a malicious injury to personal
22 property from 2006.

23 THE COURT: Victim impact?

24 MS. GARRICK: Yes, Your Honor. If you would
25 hear from Carmen Slice, who was the clerk who was

1 pregnant at the time.

2 THE COURT: Yes, ma'am. I would be glad to
3 hear from you, Ms. Slice.

4 MS. SLICE: I was very afraid for my life and
5 my unborn child's life, very afraid what would happen to
6 us. It has impacted my life, and I do have nightmares.
7 I'm trying to seek some counseling about certain things.

8 THE COURT: He was a regular customer?

9 MS. SLICE: I had seen him before several
10 times, yes, sir.

11 THE COURT: When we say regular, weekly?
12 Bi-weekly? Do you recall?

13 MS. SLICE: At least four to five times -- in
14 the past two weeks, I had seen him a couple of times.

15 THE COURT: Did you know Ms. Smith also?

16 MS. SLICE: I can't remember her.

17 THE COURT: Thank you. Thank you, Ms. Slice.

18 MS. WEATHERSPOON: Good morning.

19 THE COURT: Good morning. How are you?

20 MS. WEATHERSPOON: I'm doing well, Judge.

21 Thank you for allowing me to address the Court. On that
22 particular day, Your Honor, I was fearful for my life.
23 Anyone that comes in a place of business on property and
24 robs someone with an attempt that he had in mind, to me
25 doesn't have any morals and values in life.

1 The defendant had enough time to think about
2 what he wanted to do because he came in our place of
3 business. He went around the store. I mean, he had
4 enough time to think about his action before he did it.

5 Once he got the register out from our store,
6 he chased me around the parking lot. I am fearful for
7 my life -- with a knife in his hand. He had enough time
8 to really think about what he did.

9 I am asking the Court, do not give him the
10 minimum time. Give him the maximum punishment that the
11 Court allows for him to have today.

12 THE COURT: Thank you. Thank you very much,
13 Ms. Weatherspoon.

14 MS. GARRICK: Your Honor, this is Detective
15 Gamble.

16 THE COURT: Yes, sir, I would be glad to hear
17 from you.

18 DETECTIVE GAMBLE: Your Honor, as the victims
19 have stated, this action that Mr. Deaton did caused them
20 to have some problems from then on until today, until
21 the present time. Ms. Slice has had nightmares is what
22 she told me.

23 Mr. Deaton did, in fact, have time. He was in
24 the store to think about what he was doing. Because of
25 this and his criminal history, we would ask that

1 Mr. Deaton not get the minimum sentence but a midrange
2 to maximum sentence.

3 THE COURT: Thank you, Detective.

4 DETECTIVE GAMBLE: Thank you, Your Honor.

5 MS. GARRICK: Your Honor, the only other thing
6 I would like to add is when I first got the file in
7 August, Mr. Deaton has a completely unrelated case on a
8 burglary first.

9 I did make a plea offer to Ms. Hahn back in
10 August that involved negotiations on that burglary first
11 charge as well. At that time I offered a reduction on
12 that burglary first to a burglary second. And to wrap
13 it all up, I was not going to be opposed to the minimum
14 sentence.

15 Today as we stand here just on the armed
16 robbery, I am opposed to the minimum sentence because
17 during -- we were in plea negotiations for a very, very
18 long time. Then they broke down.

19 So once I started getting the case ready for
20 trial, there were things, as you probably remember, that
21 weren't necessarily documented in writing. I didn't
22 know Carmen Slice was over eight months pregnant.

23 In my mind that makes it even worse that what
24 it originally was. I didn't have his rap sheet or full
25 rap sheet at that time, and I didn't know the full

1 extent of the chasing around in the parking lot of
2 Ms. Weatherspoon and that there were other witnesses
3 that saw it as well.

4 Because of all of that and because of where we
5 are here today, I would ask for something more than the
6 minimum sentence, Your Honor.

7 THE COURT: Thank you.. Thank you very much,
8 Solicitor. Anything further, Solicitor?

9 MS. GARRICK: Beg the Court's indulgence one
10 moment.

11 (Pause.)

12 MS. GARRICK: That's all, Your Honor.

13 THE COURT: I find there is a substantial
14 factual basis for the plea. The Defendant's decision to
15 plead guilty is freely, voluntarily, knowingly, and
16 intelligently made.

17 He has had the advice and counsel of a very
18 competent attorney with whom he says he is well and
19 totally satisfied. His plea of guilty to armed robbery
20 is therefore accepted. Ms. Hahn.

21 MS. HAHN: Thank you, Your Honor. Your Honor,
22 I am going to go through some background information for
23 him, and this is probably going to be a review for you
24 since I believe you presided over his bond hearing, but
25 I wanted to go through some of the same information for

1 the plea as well.

2 Mr. Deaton is 40 years old. He is a resident
3 of West Columbia. He has got a long history of
4 employment. He started working when he was 15. He
5 began working for his grandfather, a man named George
6 Katz, who owned the Southland restaurant in Gaston.

7 Mr. Katz actually had a heart attack, and
8 Mr. Deaton took over. He managed the restaurant for
9 several years after that. He then started working as a
10 painter --

11 THE COURT: Was that the restaurant that burnt
12 down? That's the one on 21 or 321?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right.

15 MS. HAHN: He started working as a painter
16 after that. He said he worked in Pine Ridge for about
17 eight years. He then worked for another company off
18 Broad River Road in Columbia.

19 He worked in Florida in Jacksonville for about
20 three years there. Then he came back to Lexington
21 County where he started working for a man named Ronnie
22 Buff.

23 I believe that Mr. Ronnie Buff was the one
24 that came and spoke on his behalf last time. He had
25 known Mr. Deaton and he was a good employee. He also

1 worked for Mr. Buff's brother, Mr. Lloyd Buff, who also
2 came in.

3 THE COURT: One of those ran the store?

4 MS. HAHN: One of them ran a business called
5 E.M.R.

6 THE COURT: What type of business was that?

7 MS. HAHN: That was a...

8 THE DEFENDANT: They build parts for nuclear
9 reactors.. I'm the one that painted all of them.

10 THE COURT: All right.

11 MS. HAHN: So he has had a fairly significant
12 work history, but he is also someone who has had some
13 difficult times in his life. When he was growing up, he
14 didn't know his dad at all.

15 His mother remarried. His stepfather was
16 abusive to her and also to his siblings and him as well.
17 The abuse was so bad that she was hospitalized for
18 several months at a time on two occasions.

19 I think that that all started Mr. Deaton's
20 drug problem, and I think that's probably what he has
21 dealt with for most of his life. His mother died when
22 she was only 49, and I think Mr. Deaton has always felt
23 like the abuse contributed to that and to his brothers
24 and sisters.

25 He told me that he started drinking and using

1 marijuana when he was only 13. At that time he was
2 still a child and living in an abusive household. When
3 his mother died, he said he started using other drugs,
4 including cocaine.

5 At that point in his life, I think he was
6 still able to work and provide for other people in his
7 family, but he still had a drug problem that was getting
8 worse. At one point he got so bad that his wife left
9 him.

10 During this time he still was able to care for
11 his siblings and then his own son and kept trying to
12 manage the problem. He knew that he had a problem, and
13 so he got himself into drug treatment.

14 He said that he has participated in Alcoholics
15 Anonymous and Narcotics Anonymous. He put himself in a
16 program called Owl's Nest in Florence. That's a
17 residential facility. He lived there and worked there
18 while he was in that facility.

19 He also sought treatment in a place in West
20 Columbia called My House. He lived and worked there for
21 several months as well. That's the facility where he
22 eventually met his codefendant in this case, Ms. Smith.
23 She was also someone that was undergoing treatment at
24 that facility.

25 THE COURT: At My House?

1 MS. HAHN: Yes, sir.

2 THE COURT: He and the codefendant Ms. Smith
3 met in rehab at My House?

4 MS. HAHN: Yes, Your Honor.

5 THE COURT: Thank you.

6 MS. HAHN: I say all this just to point out
7 that while he has had a problem, he is not somebody that
8 has just gone out and used drugs and never had thought
9 about it. He is somebody that has really tried to
10 change things and tried to get himself back on track.

11 After he met Ms. Smith, they eventually moved
12 out of treatment and they moved in together. For a
13 while they remained off drugs, and I think they took a
14 lot of pride in not using drugs.

15 He says that things got bad again. I believe
16 it was one night they had some wine, and then things
17 just kind of snowballed from there; so he got into this
18 situation.

19 I believe what happened was that he had
20 started using more serious drugs again, and they had
21 pretty much used all of their money. She has
22 corroborated this as well.

23 It had gotten to the point they didn't have
24 any money left to live on, and she had decided she was
25 going to return home to Charleston to live with her

1 family. That's when he decided to do this.

2 You can see from his medical information from
3 the detention center that he is somebody that has got a
4 lot of anxiety. I think that was a big part of this. I
5 certainly think that this was an act of desperation. I
6 don't think he would have done this if he had been in
7 his right mind.

8 He went into a store where people knew him.
9 It was the middle of the daytime with tons of customers
10 around. He didn't have any mask, made no efforts to
11 conceal his identity. I think it was just an act of a
12 desperate person.

13 As far as the facts go, he has admitted from
14 the beginning to me that this is what happened. He is
15 not somebody that's trying to deny everything. He was
16 cooperative with law enforcement, wrote a complete
17 statement about what he had done, confessed to the
18 crime.

19 I would say that I think the only thing that
20 he contests about the facts that the solicitor has read
21 out is that he says it wasn't his intent to chase
22 anybody around the parking lot.

23 I think what he was doing was trying to get
24 into his car and get away. I understand that's not what
25 Ms. Weatherspoon says, but that's his position about it.

1 Other than that, he has admitted everything to me.

2 I think he is extraordinarily remorseful about
3 this. I think he realizes he has hurt himself. I think
4 he's sorry that he hurt people that were in the store
5 that day, and I know he's very sorry he hurt his family.
6 I know that they are all disappointed about what
7 happened.

8 Your Honor, when I've talked to him, I think
9 he's an extremely nice person. He's the kind of person
10 you would want to meet. When his family was here
11 before, they all talked about the kind of person he was,
12 how he took care of family members, how he was a good
13 person.

14 The employers that came in had good things to
15 say on his behalf. His Narcotics Anonymous sponsor who
16 came in, Mr. Wardlaw, talked about how he had made so
17 many efforts while he had been in treatment.

18 We tried to get his family and friends here
19 today, but I don't think that my investigator has been
20 able to reach any of them on such short notice. He
21 decided he wanted to plead.

22 I would like to present one other thing.
23 While he has been incarcerated, he has participated in
24 the L.R.A.D.A.C. program, and he received a certificate
25 for completing that program. I think he told me that

1 Your Honor actually came to the jail and made a
2 presentation on that.

3 THE COURT: I actually did do that last
4 Tuesday, Tuesday a week ago.

5 (Hands to Court.)

6 MS. HAHN: As you can see, he is someone that
7 even now has continued to do what he can to get things
8 back in the right place. Your Honor, I think it's just
9 a very sad story all around, for the people who were in
10 the store and who were terrified about what happened and
11 also for him and for his codefendant Ms. Smith as well.
12 Your Honor, I think he would like to address the Court
13 at the appropriate time.

14 THE COURT: Just make sure I can hear you,
15 Mr. Deaton. I would be glad to hear whatever you want
16 to say.

17 THE DEFENDANT: Yes, sir. I'm very sorry that
18 I have done any of this. I really am very sorry. I
19 didn't know the woman was pregnant. I'm so sorry I done
20 anything like that.

21 That day just -- I was only trying to keep my
22 girlfriend from leaving. I had no intentions on doing
23 any of this. I feel like I'm about to pass out. I just
24 had no intentions to hurt anybody, just for her not to
25 leave. It's something that was randomly done. It's a

1 big mistake. I'm very sorry. I hope you will accept my
2 apology. I don't know what else to say.

3 THE COURT: Anything else you would like to
4 say?

5 THE DEFENDANT: I don't know what else to say.

6 MS. HAHN: Your Honor, we would ask that you
7 sentence him to the minimum on this charge.

8 THE COURT: Thank you. Thank you very much.
9 Of course, Samantha and Carmen -- I apologize. The last
10 name start with a W., Weatherstone.

11 MS. GARRICK: Weatherspoon.

12 THE COURT: Ms. Weatherspoon, of course,
13 Mr. Deaton was the victim and was in her right mind that
14 day as far as you chasing her around and all. You were
15 trying to stop your girlfriend Ms. Smith. You were
16 trying to escape; is that correct?

17 THE DEFENDANT: I was trying to get in the
18 car, yes, sir.

19 THE COURT: You were trying to get away?

20 THE DEFENDANT: I was trying to get in the
21 car, yes, sir. I wasn't trying to hurt or chase nobody
22 or anything. I will swear on that.

23 THE COURT: What were you doing, crack
24 cocaine?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: How often would you do it?

2 THE DEFENDANT: I had just started back doing
3 it, sir. We did it for -- we had been up a couple of
4 days.

5 THE COURT: You had been up a couple of days?

6 THE DEFENDANT: Yes, sir. And we had run out
7 of money. She was going to leave and I was begging her
8 not to leave. I just totally freaked out. I was doing
9 anything I could to keep her from leaving. It's my
10 fault. I know I did wrong. I swear I didn't chase
11 nobody or anything. I ain't never hurt nobody in my
12 life.

13 THE COURT: How much did it cost you to do
14 crack cocaine?

15 THE DEFENDANT: We spent a good bit of money,
16 all the money that we had. I don't remember how much it
17 was. We spent the money that we had.

18 THE COURT: So you are going out to rob to get
19 more money to do more crack cocaine?

20 THE DEFENDANT: I was trying to keep her from
21 not leaving.

22 THE COURT: And the way to keep her from not
23 leaving was to get more crack cocaine?

24 THE DEFENDANT: Get money for rent and stuff.
25 I gave her the money. When I got back, when I finally

1 got back, she asked me to please stay there and turn
2 myself in.

3 My truck was sitting in the front yard. I
4 could have left but I didn't. I got scared when the
5 officers got there and hid. I swear I stayed there to
6 turn myself in and gave her the money.

7 THE COURT: All right. Anything further,
8 Ms. Hahn? Anything further, Mr. Deaton?

9 THE DEFENDANT: No, sir. The one other thing,
10 the day I didn't sign the plea, I just had a bad panic
11 attack that day. I was going to sign it, and it kept
12 going back and forth. I tried to get the plea to sign
13 it, but I didn't get to sign it. I was really shook up.

14 THE COURT: What happened to Ms. Smith?

15 MS. GARRICK: Your Honor, she pled to
16 accessory after the fact of armed robbery and possession
17 of cocaine. She got a three-year sentence. It was
18 without recommendation, a straight-up plea.

19 THE COURT: 09-GS-32-27699, William Patrick
20 Deaton, armed robbery, the defendant is committed to the
21 State Department of Corrections for a determinate term
22 of 16 years. He is given credit for all time served.
23 He shall have no contact with the victims, and I
24 recommend A.T.U.

25 I do commend Mr. Deaton for voluntarily

1 completing the L.R.A.D.A.C. program while in the
2 Lexington County Detention Center. Good luck to you,
3 Mr. Deaton. Thank you. Thank you, Solicitor. Thank
4 you, Ms. Hahn.

5 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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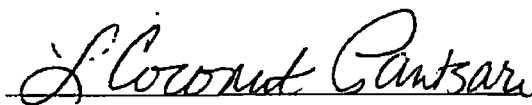
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C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal, in the Criminal Court for Lexington County, South Carolina on the 27th day of January, 2011

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

September 13, 2011



Court Reporter

il WL

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

-VS-

WILLIAM DEATON,

Defendant.

TRANSCRIPT OF RECORD

09-GS-32-2764

January 29, 2010
Lexington, South Carolina

B E F O R E:

HONORABLE R. KNOX MCMAHON, Judge.

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

J. ANGELA GARRICK, Asst. Solicitor
Attorney for the State

SARAH A. HAHN, Asst. Public Defender
Attorney for the Defendant

L. COCONUT PANTSARI, R.P.R.
Circuit Court Reporter

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INDEX OF WITNESSES

(Court Reporter's Note: There was no direct or cross examination of any witnesses).

INDEX OF EXHIBITS

(Court Reporter's Note: No exhibits were marked or received into evidence).

1 (The following proceedings are reported on
2 January 29, 2010.)

3 CLERK: Indictment 2009-GS-32-2764, the State
4 versus William Patrick Reese Deaton, indicted for
5 burglary first degree, he is pleading as charged. The
6 indictment has been true billed, and he is represented
7 by Ms. Hahn.

8 Raise your right hand, please.

9 WILLIAM PATRICK REESE DEATON is
10 first duly sworn.

11 THE COURT: Good morning, Mr. Deaton. How are
12 you?

13 THE DEFENDANT: Fine, sir. How about you?

14 THE COURT: Ms. Hahn, you represent William
15 Patrick Deaton?

16 MS. HAHN: Yes, Your Honor.

17 THE COURT: Have you explained to him the
18 charge in the indictment, the possible punishment, and
19 his rights, including his right to a jury trial?

20 MS. HAHN: I have, Your Honor.

21 THE COURT: In your opinion does he understand
22 these things?

23 MS. HAHN: Yes, Your Honor.

24 THE COURT: How does he indicate he intends to
25 plead to burglary in the first degree?

1 MS. HAHN: Guilty, Your Honor.

2 THE COURT: Are you William Patrick Reese
3 Deaton?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Mr. Deaton, before I can accept a
6 plea of guilty, it's necessary for me to determine if
7 your plea is being given freely and voluntarily.
8 Therefore, I need to ask you some questions.

9 If you do not understand my questions, please
10 let me know, and I will try to explain them to you. If
11 at any time you wish to talk with your attorney, please
12 let me know, and I will allow you to do so. Do you
13 understand?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: How old are you, sir?

16 THE DEFENDANT: Forty-one years old.

17 THE COURT: How far did you go in school?

18 THE DEFENDANT: Ninth grade.

19 THE COURT: What type of work do you do?

20 THE DEFENDANT: I'm a painter.

21 THE COURT: Besides what you told me about
22 Wednesday, today are you under the influence of any
23 medication, drugs or alcohol that negatively affects
24 your thinking ability?

25 THE DEFENDANT: No, sir.

1 THE COURT: Are you still taking the same
2 medications today that you were taking Wednesday?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you still taking those
5 according to the prescriptions?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And those do not negatively affect
8 your thinking ability?

9 THE DEFENDANT: No, sir.

10 THE COURT: Tell me what you are doing here
11 today.

12 THE DEFENDANT: I'm here to plead guilty to
13 this charge.

14 THE COURT: And that's a charge of burglary in
15 the first degree?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Are you aware of any physical,
18 emotional or nervous problem that keeps you from
19 understanding what you are doing today?

20 THE DEFENDANT: No, sir.

21 THE COURT: I have been handed up
22 Indictment 09-GS-32-2746. It's a true bill indictment.
23 It reads that you did in Lexington County, on or about
24 July 19, '09, enter [REDACTED] Road, Swansea, the
25 dwelling of William Capps without consent and with the

1 intent to commit a crime therein and while within the
2 dwelling became armed with a firearm in violation of
3 16-11-311. That is a charge of burglary in the first
4 degree, for which you can receive a sentence of from 15
5 years to life. Do you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: When you plead guilty, you give up
8 certain important constitutional rights. First, you
9 give up your right to remain silent. Second, you give
10 up your right to a jury trial. Third, you give up your
11 right to confront and be confronted by the witnesses
12 against you. Do you understand these rights?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand that when you
15 plead guilty, you give up these important constitutional
16 rights?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Is that what you want to do?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You understand you will not get a
21 jury trial if you plead guilty?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Understanding then the charge and
24 the punishment, how do you plead to burglary first
25 degree, guilty or not guilty?

1 THE DEFENDANT: Guilty, sir.

2 THE COURT: Did you commit this offense?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Plea negotiations?

5 MS. GARRICK: No, Your Honor.

6 THE COURT: Is that correct, Ms. Hahn?

7 MS. HAHN: Yes, Your Honor.

8 THE COURT: Is that your understanding,
9 Mr. Deaton?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you still wish to plead guilty?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Has anyone promised you anything
14 or held out any hope of reward to get you to plead
15 guilty?

16 THE DEFENDANT: No, sir.

17 THE COURT: Has anyone threatened you or
18 coerced you in any manner?

19 THE DEFENDANT: No, sir.

20 THE COURT: Has anyone used any undue
21 influence to get you to plead guilty?

22 THE DEFENDANT: No, sir.

23 THE COURT: Have you had enough time to make
24 up your mind?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Are you pleading guilty of your
2 own free will and accord?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you satisfied with the manner
5 in which your lawyer has advised and represented you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Have you talked with your lawyer
8 as often and for as long as you feel necessary for her
9 to properly represent you?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you need anymore time to talk
12 with your lawyer?

13 THE DEFENDANT: No, sir.

14 THE COURT: Have you understood your talks
15 with your lawyer?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Are you totally and completely
18 satisfied with your lawyer's services?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you have any complaint you want
21 to make about your lawyer, the solicitor or any police
22 officers involved in your case?

23 THE DEFENDANT: No, sir.

24 THE COURT: Have you understood my questions?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Anything you would like to ask me
2 about what we have just been over?

3 THE DEFENDANT: No, sir.

4 THE COURT: Do you understand you have a right
5 to appeal your guilty plea and the sentence of the Court
6 and that you or your lawyer must do so within ten days?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Solicitor.

9 MS. GARRICK: Thank you, Your Honor. May it
10 please the Court. Your Honor, it was July 19, 2009. It
11 was the home of William and Tina Capps. They lived on
12 Hart Sease Road, which is in Lexington County. Your
13 Honor, it's my understanding that Mr. Deaton is actually
14 the nephew of William Capps.

15 He went into the home there, Your Honor, took
16 jewelry and two firearms. He was found to have pawned
17 at least one of the firearms within a couple of hours at
18 a local pawn shop. That's how the Swansea Police
19 Department was able to make an arrest in this case.

20 Your Honor, Tina Capps, the victim, is present
21 in court and would like to address you as far as
22 sentencing. She has made a request of \$5,000
23 restitution.

24 Your Honor, there was one particular necklace
25 that she was very concerned about that contained her

1 father's ashes, and she has asked a special request that
2 the Defendant, if he knows where the necklace is, to
3 please tell her because it has great sentimental value.

4 THE COURT: Well, I'm not an investigator.
5 The Sheriff's Department should have taken that up with
6 Ms. Hahn.

7 MS. GARRICK: Yes, sir, I think they tried to.
8 It's not been able to be located. Your Honor, that's
9 all as far as the facts of the case.

10 THE COURT: Thank you. I would be glad to
11 hear from Ms. Capps.

12 Good morning, Ms. Capps. How are you?

13 MS. CAPPS: Good morning.

14 THE COURT: Tell me your full name.

15 MS. CAPPS: Tina R. Capps.

16 THE COURT: I would be glad to hear from you.

17 MS. CAPPS: Sir, I would just like to know if
18 there was any way possible if he knew where any of my
19 stuff was.

20 THE COURT: All right.

21 MS. CAPPS: He did tell Officer Bennett that
22 my rifles were at a pawn shop, but we only retrieved
23 one. I didn't get the other one.

24 THE COURT: Tell me the kinship between
25 Mr. Deaton and you.

1 MS. CAPPS: I'm his uncle's wife.

2 THE COURT: All right. Thank you. Anything
3 further, Solicitor?

4 MS. GARRICK: No, Your Honor, other than his
5 prior convictions, which I believe you heard on
6 Wednesday.

7 THE COURT: I don't recall them.

8 MS. GARRICK: Yes, sir. Your Honor, he has a
9 2005, possession of cocaine, a criminal conspiracy, and
10 unlawful carrying of a weapon. That's all from 2005,
11 and he pled in front of you on Wednesday to armed
12 robbery and received a 16-year sentence.

13 THE COURT: All right. Thank you. I find
14 that there is a substantial factual basis for the plea.
15 The Defendant's decision to plead guilty is freely,
16 voluntarily, knowingly, and intelligently made. He has
17 had the advice and counsel of a very competent attorney
18 with whom he says he is well and totally satisfied. His
19 plea is accepted. Ms. Hahn.

20 MS. HAHN: Thank you, Your Honor. I went
21 through an extensive history of Mr. Deaton on Wednesday.
22 I believe Your Honor remembers most of that, so I won't
23 review all that again.

24 I would say that Mr. Deaton is very sorry
25 about this incident as well. We had hoped that some of

1 his family members would be able to make it today. We
2 called ahead of the hearing, but it turns out people had
3 work commitments and nobody has been able to come in for
4 him today unfortunately.

5 We ask the Court to consider a 15-year
6 sentence on this to run concurrent with the 16-year
7 sentence he got on the armed robbery on Wednesday. At
8 this point he served 181 days. As far as the items that
9 he took, he has told me that he threw those out of --

10 (Cell phone goes off.)

11 THE COURT: Take that phone, please, Sheriff.
12 Yes, ma'am, Ms. Hahn.

13 MS. HAHN: Yes, your Honor. He said that he
14 was driving his car, and he threw those out of the
15 window. He said they were in a Crown Royal bag. He
16 said that they were on a road that he doesn't know the
17 name of. It was on Pine Ridge Drive -- that road was
18 off of Pine Ridge Drive. That was on the 321 side of
19 Pine Ridge Drive. That's all he remembers about it.

20 THE COURT: Has he advised law enforcement of
21 this information?

22 MS. HAHN: Your Honor, he told me this this
23 morning, and I relayed that to the solicitor, but he
24 doesn't remember specifically anymore than that.

25 THE COURT: Would he be willing to be escorted

1 by law enforcement to this location and attempt to
2 locate Mr. and Ms. Capps' property?

3 MS. HAHN: Your Honor, he has told me that he
4 would be willing to try. He is not sure exactly where
5 it was, but he would certainly be willing to cooperate
6 and make an attempt to do that.

7 THE COURT: I think his memory would probably
8 be clouded by his use of crack cocaine?

9 MS. HAHN: Quite likely, Your Honor.

10 THE COURT: I tell you what I will do,
11 Ms. Hahn. I will take his sentence under advisement.
12 If he will cooperate with law enforcement and attempt to
13 return Mr. and Ms. Capps' items to his uncle and aunt, I
14 will most likely give him a minimum, concurrent sentence
15 to his armed robbery sentence if he would do that. I
16 believe Mr. Deaton will do that.

17 Will you, Mr. Deaton?

18 THE DEFENDANT: Yes, sir. I wrote my sister
19 about the jewelry, and I told them where -- the vicinity
20 that I thought it might be in and was hoping that they
21 had gotten in touch with the solicitor.

22 I asked them to get in touch with the
23 solicitor to tell her that, you know, I would go look
24 through -- in places with law enforcement. I also wrote
25 on the inmate forms we have at the jail for an officer

1 to come and talk to me, but no one has ever come and
2 talked to me.

3 THE COURT: You are not going to escape or
4 anything if they take you out there, are you?

5 THE DEFENDANT: No, sir. The time that I'm
6 doing and everything, no. I don't want to do anything
7 like that.

8 THE COURT: What about the rifle? Ms. Capps
9 said she was only able to recover one rifle.

10 THE DEFENDANT: Yes, sir. When the officers
11 come to see me about it, they didn't have any evidence
12 or fingerprints or anything, and they asked me about the
13 thing.

14 I told them I wanted to fess up to doing it
15 and take responsibility for the crime. I told them
16 where I thought one rifle would be, the rifle. There is
17 a shotgun, but I don't exactly remember what I done with
18 it or whatever.

19 THE COURT: Did you throw it away? Did you
20 pawn it? Did you give it to somebody? Did you trade it
21 for crack cocaine?

22 THE DEFENDANT: I believe I gave it to a
23 fellow for some money. I remember about where the
24 trailer is or whatever. I will work with law
25 enforcement in any kind of way I can to get the stuff

1 back. I'm really sorry I done my family like this. My
2 aunt has always been real good to me and my uncle.

3 THE COURT: And you know that necklace is very
4 important to Ms. Capps?

5 THE DEFENDANT: Yes, sir, I didn't know.

6 THE COURT: Do you think that is in the Crown
7 Royal bag?

8 THE DEFENDANT: It probably is, yes, sir. I
9 had no idea nothing like that was in there. I'm very
10 sorry.

11 THE COURT: Who was the case officer,
12 Solicitor?

13 MS. GARRICK: Sergeant Bennett from the
14 Swansea Police Department.

15 THE COURT: Would you get with either the
16 sheriff or the sergeant. I will take it under
17 advisement. Is there anything else, Ms. Capps besides
18 the rifle and the jewelry?

19 MS. CAPPS: No, sir.

20 THE COURT: I will withhold sentencing until
21 he assists law enforcement in that matter.

22 MS. GARRICK: Thank you, Your Honor.

23 THE COURT: Thank you. Thank you very much,
24 Solicitor. Thank you for being here, Ms. Capps. Good
25 luck to you, Mr. Deaton. Just let me know. If he

1 fulfills that, Solicitor, just let me know, and I can
2 probably issue a written order on the sentence. If he
3 doesn't fulfill it, let me know, and I will bring him
4 back over here.

5 MS. GARRICK: Yes, sir, Your Honor.

6 *** END OF REQUESTED TRANSCRIPT OF RECORD ***
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C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal, in the Criminal Court for Lexington County, South Carolina on the 29th day of January, 2010.

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

January 2, 2010

L. Coconut Pantsari

Court Reporter

DEC 13 2010

FORM 5

SCANNED

STATE OF SOUTH CAROLINA

COUNTY OF

FILED

IN THE COURT OF COMMON PLEAS

2010 DEC 04 2 9:14

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

William Patrick Deaton
v. #340130JETHA A. CARRIGG
CLERK OF COURT
LEXINGTON SC

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

2010CP3205311

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 Lieber Correctional Facility
2. Name and location of Court which imposed sentence Court of General Sessions
3. Name(s) of co-defendant(s) (if any) CARRIE LYNN Smith Lexington County
4. The indictment number or numbers (if known) upon which and the offenses for which:
sentence was imposed:
 - (a) 2009 GS 3202764 First Degree Burglary
 - (b) 2009 GS 3202769 ARMED ROBBERY with Deadly weapon
 - (c)
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 2009 GS 3202769 JANUARY 27th 2010 SIXTEEN years
 - (b) 2009 GS 3202764 JANUARY 29th 2000 FIFTEEN years

A TRUE COPY

Revised 3/2003

Lex. Co. C.C.C.P., G.S. & P.C.

- (c) _____
6. Check whether a finding of guilty was made:

- (a) after a plea of guilty ☒ _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____

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

NO

W. A. CARRIGE
CLERK OF COURT
FAYETTEVILLE SC

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

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

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

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

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

- (c) the date of each such result:

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

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

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

2010CP3205311

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

- (a) ASKED ATTORNEY TO FILE Appeal BUT she DIDN'T
- (b) _____
- (c) _____

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

- (a) INANE REFUSAL assistance of counsel

(b) _____

(c) _____

2010CP3205311

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

- (a) Mitigating facts never presented to court prior to sentencing
 (b) Defendant not competent to enter plea due to psychiatric medication
 (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? yes
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? NO

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

- (a) the specific nature thereof:

- i. Motion to modify sentence
 ii. _____
 iii. _____
 iv. _____

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

- i. General Sessions, Lexington County
 ii. _____
 iii. _____
 iv. _____

- (c) the disposition thereof:

- i. Armed Robbery Conviction (2009-ES-32-02764) reduced to
 ii. twelve years concurrent.
 iii. _____
 iv. _____

- (d) the date of each such disposition:

TH A. CARRIGG
 CLERK OF COURT
 LEXINGTON SC

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i. April 1 2010

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

2010CP3205311

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

NO

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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2010 DEC 14 A 9 14
JETH A. CARRIGS
CLERK OF COURT
LEXINGTON SC

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? YES

(c) your sentencing? YES

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

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

(a) the name and address of each attorney who represented you:

i. Sarah Hahn, Public Defenders Office, 407 1/2 W. Main St.
 ii. Lexington SC 29072

iii. _____

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

i. Guilty Plea & sentence modification

ii. _____

iii. _____

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

Vacate sentence

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

NO

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JEFF A. CARRIG
 CLERK OF COURT
 LEXINGTON SC

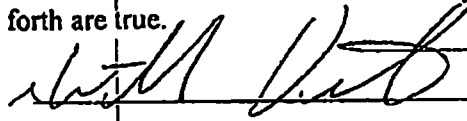
Revised 3/2003

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Dorchester)

I, William Patrick Decker, 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.



SWORN to and subscribed before me this 9th
day of December, 2010.

Louchean Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

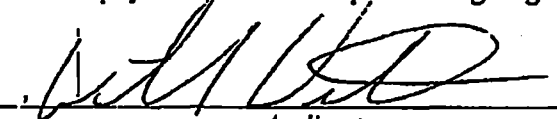
2010CP3205311

FILED
2010 DEC 14 A 9:14
JETH A. CARRIGE
CLERK OF COURT
LEXINGTON SC

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

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

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


Applicant

SWORN or affirmed to and subscribed before me this
9th day of December, 2010.


Notary Public

My Commission Expires: May 26, 2020

BETH A. CARRIGS
CLERK OF COURT
LEXINGTON SC

2010 DEC 14 2 4 14

FILED

010CP3205311

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

COUNTY OF LEXINGTON)

2010-CP-32-5311

William Patrick Deaton, #340130,)

Applicant,)

v.)

RETURN

State of South Carolina,)

Respondent.)

The Respondent, making its Return to the application for post conviction relief (PCR) filed December 14, 2010, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. The Applicant was indicted at the October 2009 term of the Lexington County Grand Jury for Burglary—First Degree (2009-GS-32-2764), and Armed Robbery with a Deadly Weapon (2009-GS-32-2769). He was represented by Sarah Hahn, Esquire. On January 29, 2010, the Applicant appeared in the Lexington County Courthouse and pled guilty as charged. He was sentenced by the Honorable R. Knox McMahon, to confinement for a period of sixteen (16) years on the armed robbery charge, and a concurrent term of fifteen (15) years on the burglary charge. The Applicant did not appeal his guilty plea or sentence.

Attached herewith and incorporated herein are the records of the Lexington County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina

Department of Corrections, and the guilty plea transcript. The Respondent reserves the right to amend and/or supplement this Return upon receipt with any relevant materials.

II.

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

1. Ineffective Assistance of Counsel
 - a. "Asked attorney to file an appeal but she didn't."
 - b. "Mitigating facts never presented to court prior to sentencing."
2. Involuntary Guilty Plea
 - a. "Defendant not competent to enter plea due to psychotropic medication."

III.

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. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced 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, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. Nevertheless, the allegation of ineffective assistance of counsel probably raises a question of fact which cannot be conclusively refuted by the record and, therefore, requires that an evidentiary hearing be held. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983); Delaney v. State, 269 S.C. 555, 238 S.E.2d 679 (1977).

IV.

Here, in addition to making general allegations pertaining to Plea Counsel's performance, the Applicant also specifically claims that he was denied effective assistance of counsel because his attorney did not inform him of his right to appeal his guilty plea conviction. Absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. Jones v. State, 677 S.E.2d 20 (2009). Counsel has a constitutionally imposed duty to consult with the defendant about an appeal only when there is reason to think either:

(1) that a rational defendant would want to appeal (for example, because there are non-frivolous grounds for appeal); or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 120 S.Ct. 1029 (2000). In making this determination, courts must take into account all the information counsel knew or should have known. Id. Although not determinative, a highly relevant factor in this inquiry will be whether the conviction follows a trial or a guilty plea, both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings. Id.

There being nothing in the record to indicate that the Applicant reasonably demonstrated to Counsel that he was interested in appealing, the State submits that the allegation is totally without merit and should be dismissed. Nevertheless, the allegation probably raises a question of fact which may not be conclusively refuted by the record and therefore requires that an evidentiary hearing be convened. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

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

VI.

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

VII.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

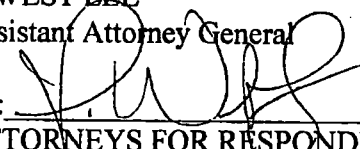
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

A. WEST LEE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

February 28, 2011.

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

2010-CP-32-5311

WILLIAM PATRICK DEATON, #340130)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,)

Respondent.)

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

William E. Davis, Jr., Esquire
Post Office Box 2109
Columbia, SC 29212

DATED this 1st day of March, 2011


Lena Pelishenko, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA
2 COUNTY OF LEXINGTON
3
4

IN THE CIVIL COURT

5 WILLIAM DEATON,

6 Applicant,

7 -vs-

8 STATE OF SOUTH CAROLINA,

9 Respondent.

TRANSCRIPT OF RECORD

10-CP-32-5311

11 August 15, 2012
12 Lexington, South Carolina
13

14 B E F O R E:

15 HONORABLE W. JEFFREY YOUNG, Judge.
16
17

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

19 AIMEE J. ZMROCZEK, Esquire
20 Attorney for the Applicant

21 KAELOE E. MAY, Asst. Attorney General
22 Attorney for the State
23

24 L. COCONUT PANTSARI, R.P.R.
25 Circuit Court Reporter

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SARAH HAHN	
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APPLICANT'S EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
1	Handwritten notes	16	
2	Handwritten notes	16	
3	Case law	16	

1 (The following proceedings are reported on
2 August 15, 2012.)

3 MS. MAY: Your Honor, the next case we would
4 like to call is William Deaton v. State, Case Number
5 2010-CP-32-5311. I believe the applicant has a
6 preliminary matter to take up with the Court.

7 THE COURT: All Right. Yes, ma'am.

8 MS. ZMROCZEK: Good morning, Your Honor.

9 THE COURT: How are you doing?

10 MS. ZMROCZEK: I'm well. How are you?

11 THE COURT: Well.

12 MS. ZMROCZEK: Your Honor, the applicant is
13 certain and convinced that there is a bond hearing
14 transcript from December 14th or December 10th of 2011,
15 that is most important for this case.

16 I haven't been able to find it. Ms. May has
17 not been able to find it, but he swears that a plea
18 offer was made and entered into on the record on that
19 day and that we can't go forward until we get that
20 transcript.

21 THE COURT: Was that in front of a magistrate?

22 MS. ZMROCZEK: No, Your Honor. It was in
23 front of a general sessions court judge according to
24 what he tells me.

25 THE COURT: He says that the plea was taken at

WILLIAM DEATON -- DIRECT -- MS. ZMROCZEK

4

1 a bond hearing?

2 MS. ZMROCZEK: That it was supposed to be a
3 bond hearing, but then she made a plea offer on the
4 record that she said he had seven days to accept
5 according to his -- what he tells me -- is on that
6 record on that day at the bond hearing, they entered
7 into that agreement; and he had seven days to accept it,
8- which he tried to do.

9 THE COURT: There is nothing binding on that.

10 MS. ZMROCZEK: Your Honor --

11 THE COURT: That's not an agreement. The
12 State cannot be bound by that.

13 MS. ZMROCZEK: I tried to advise the client of
14 that. I have read the case law and that's my position
15 as well, but we are at an impasse at this point.

16 THE COURT: There is no impasse with that.
17 That is a nullity that never happened or if it happened,
18 it was void. So I mean is he ready to go forward on his
19 - P.C.R. today?

20 MS. ZMROCZEK: Your Honor, I am ready to go
21 forward, and he claims that he is not ready.

22 THE COURT: Does he wish to withdraw it?
23 Because it's either going forward today or it's
24 withdrawn for failure to prosecute. One of two things
25 is going to happen.

1 MS. ZMROCZEK: I believe we are going to go
2 forward, Your Honor.

3 THE COURT: Let's go forward. Are you ready,
4 Ms. May?

5 MS. MAY: Yes, Your Honor.

6 THE COURT: Ms. Zmroczek, are you ready to
7 present your case?

8 MS. ZMROCZEK: Thank you, Your Honor. We call
9 Mr. Deaton to the stand.

10 THE COURT: Mr. Deaton, come forward and be
11 sworn.

12 WILLIAM DEATON, being
13 first duly sworn, testifies as follows:

14 CLERK: State your name for the record,
15 please.

16 THE WITNESS: William Deaton.

17 THE COURT: You may proceed, ma'am.

18 MS. ZMROCZEK: Thank you.

19 **DIRECT EXAMINATION**

20 BY MS. ZMROCZEK:

21 Q Mr. Deaton, tell the Court what sentence you
22 received for your charges.

23 A I received 15 years for burglary first degree and a
24 16-year sentence that was reduced to 12 years for
25 armed robbery.

WILLIAM DEATON -- DIRECT -- MS. ZMROCZEK

6

1 Q And are those plea agreements that you entered
2 into?

3 A Yes, ma'am.

4 Q Were there any other plea agreements?

5 A Yes, ma'am.

6 Q What were those?

7 A The first offer was zero to ten, a plea agreement
8 that I thought I had time to take, and that was
9 taken back. But if I can, can I read this stuff
10 that I prepared for the hearing?

11 Q Certainly.

12 A Thank you.

13 THE COURT: How long is it?

14 THE WITNESS: It's not that long, sir.

15 THE COURT: Okay.

16 A On December 14, 2009, I was transported from
17 Lexington County Sheriff's Department to my bond
18 hearing. I had no bond at the time. It was there
19 that Angela Garrick, the solicitor, made a plea
20 proposal of 10 years to 30 years for second degree
21 burglary and armed robbery.

22 She said she was not opposed to the minimum
23 sentence of ten years and that I had a week to take
24 the plea offer or it was off the table. It was
25 entered under Judge Knox McMahon and accepted.

1 A few days later I contacted my lawyer, Sarah
2 Hahn, and talked with her about the plea. She said
3 with the recommendation I would get ten years.
4 That's what I had reasonably expected and was under
5 the impression that's what the sentence would be,
6 ten years.

7 I told Sarah Hahn, my lawyer, that I would
8 take the plea. She didn't contact me about any
9 changes in the plea, and we went back into the
10 courtroom on December 21st to sign the plea.

11 When we got there, my sister Denise McIver and
12 her husband Tim McIver was there, as well as my
13 Aunt Tina Capps, who had pressed the charges in the
14 burglary case, was there. My sister and
15 brother-in-law were there in my behalf.

16 Angela gave a copy of the plea to my lawyer,
17 Sarah Hahn, for me to sign. It was then that we
18 learned she had changed the plea to no
19 recommendations and \$5,000 restitution.

20 I suffer from an anxiety disorder and panic
21 attacks. Because of the changes of the plea when
22 this happened, I had a panic attack. I was
23 intending to sign the plea for ten years.

24 She had changed the plea to 10 to 30 years
25 open. I asked my lawyer Sarah what was going on,

WILLIAM DEATON -- DIRECT -- MS. ZMROCZEK

8

1 why she had -- the solicitor had changed the plea.
2 She stated that she didn't know. Sarah then went
3 to her about the plea and asked her why she had
4 changed it. She said she didn't know.

5 She conveyed the plea back to me. I asked
6 Sarah to ask Angela to please change the plea back.
7 She wouldn't answer Sarah. I waved Angela over to
8 discuss the plea with her, but she wouldn't
9 respond.

10 I didn't know what to do. She then came over
11 and took the plea and left. She turned to my
12 sister Denise McIver, and Tim McIver. They asked
13 me why didn't I sign the plea. I stated I wanted
14 to but she took it.

15 Tim and Sarah both went out of the courtroom
16 to talk to her to get the plea back. She stated I
17 had my chance and the deal was off. I had wasted
18 her time and other people's time.

19 She wouldn't talk to me -- she wouldn't talk
20 to my brother-in-law at all. I was being
21 transported back to Lexington County until further
22 notice. I didn't know until recently that because
23 the plea had been breached that it could be
24 enforced.

25 In Cooper versus State, 590 F.2d 1979, it

1 states that the core concept of considering
2 enforceability of a plea bargain undertaken by the
3 government is a defendant's constitutional right to
4 be treated with fairness throughout the plea
5 bargain process, Constitutional Amendments Five and
6 Fourteen.

7 Defendant in criminal prosecutions was
8 entitled to enforcement of a plea bargain promise
9 made by the government. The plea bargaining
10 proposal was withdrawn before it could be
11 effectively accepted by the defendant with a
12 constitutional right to fairness, and a plea
13 bargaining negotiation requires such result.

14 Under appropriate circumstances,
15 constitutional right to enforcement of a plea
16 proposal may arise before technical contract had
17 been formed on the basis of expectations reasonably
18 formed in reliance and upon honor of the government
19 in making and abiding by its proposals.

20 Also, in Santobello versus State, 404 U.S.
21 257, guilty pleas must be attended by safeguards to
22 ensure a defendant of what is reasonable in the
23 circumstances.

24 Those circumstances will vary but constant
25 factors is that when a plea rests in any

WILLIAM DEATON -- DIRECT -- MS. ZMROCZEK

10

1 significant degree on a promise or agreement of a
2 prosecutor so that it can be said to be part of the
3 inducement or consideration, such promises must be
4 fulfilled.

5 I have fulfilled my part that day by assenting
6 to the plea, as asked by the solicitor, and relied
7 on her to uphold her honor as a government official
8 to do her part, but she didn't.

9 I was expecting that day to sign a plea for
10 ten years and would have, Your Honor. Why Sarah
11 Hahn, my lawyer, did not stay after the proceedings
12 and based on the information given to have the plea
13 enforced, I don't know.

14 I asked several times how or why she had done
15 this, talking about the solicitor, and didn't know
16 until recently that it was due -- maybe Sarah
17 didn't know herself -- I don't know why she didn't
18 say that the prosecutor had not kept her obligation
19 to let -- of letting the left hand know what the
20 right hand is doing. I don't know.

21 There are many other things that I will get
22 back to later that the judge could and should have
23 been made aware of but was not.

24 Q So it's your position that you entered into a plea
25 agreement?

1 A Yes.

2 Q But that it was not enforced by your attorney?

3 A Yes.

4 Q Please answer any questions that the attorney
5 general may have.

6 THE COURT: Ms. May.

7 MS. MAY: May it please the Court, Your Honor.

8 CROSS EXAMINATION

9 BY MS. MAY:

10 Q Mr. Deaton, do you recall at your first guilty
11 plea, January 27, 2010, where you were pleading to
12 the armed robbery?

13 A Yes, ma'am.

14 Q And the Court asked you if anyone had promised you
15 anything or held out any hope of reward to get you
16 to plead guilty?

17 A Later in that -- on the transcripts when the judge
18 asked me if I had anything left to say, I had never
19 been through nothing like this. I've never been
20 really locked up before or anything.

21 In the final words, I said I wanted to take
22 the plea over and over again. That was what I was
23 stating, that I was trying to convey to him, hoping
24 maybe he would remember about the plea.

25 I didn't really know what to do. I didn't

WILLIAM DEATON -- CROSS -- MS. MAY

12

1 know because -- if we had enough access to the
2 Courts, I didn't know anything about the enforcing
3 the plea agreement. I didn't know anything about
4 any of that.

5 Q I understand. But do you recall the judge asking
6 you if anyone had promised you anything to get you
7 to plead guilty?

8 A Yes, ma'am, I do remember that. Yes.

9 Q And you answered, no, that no one had promised you
10 anything?

11 A Yes, ma'am.

12 Q And you are complaining about the burglary first;
13 is that correct?

14 A It's actually both. I mean, I had a lot more to
15 read if I could do that, and I have got the
16 paperwork.

17 THE COURT: We can just make it a part of the
18 record. Thank you.

19 BY MS. MAY:

20 Q And do you recall at your January -- on
21 January 29th, two days later, the judge asking you
22 whether you committed the offenses that you were
23 charged with?

24 A Yeah. I gave statements in both of the them at the
25 very beginning of everything, and I helped them

1 recover the property. They had no fingerprints or
2 anything, and I am the one that came forward and
3 gave the information to try to help get the stuff
4 back. Yes, ma'am.

5 Q Again, on that day the judge asked you if anyone
6 had promised you anything to plead guilty and you
7 answered no; correct?

8 A I did.

9 Q And then at your motion to reconsider your
10 sentence, April 1, 2010, you were able to address
11 the Court. Do you recall advising the Court of
12 essentially what you just advised this Court of,
13 that you had a panic attack and wished you could
14 have taken the plea?

15 A Yes, I did. The reason being, I wouldn't have had
16 a panic attack if the plea had never been changed.
17 That's what the transcript for the bond hearing was
18 about.

19 I know that technically a judge or normally a
20 judge is not part of a plea bargaining process, but
21 in this case for some reason, he was a part of the
22 plea process that day.

23 She gave me a plea. She promised me a plea.
24 She gave it that day on December 14th of ten years,
25 that she would -- she was not opposed to ten years

WILLIAM DEATON -- CROSS -- MS. MAY

14

1 that day. She said I had seven days.

2 Like I just read, that is pretty much -- from
3 what I just read from the cases that I have here --
4 they are not South Carolina cases -- but I do have
5 a copy of the cases with me and also two other
6 South Carolina cases where they were remanded for
7 resentencing.

8 But the whole thing is that she did -- she
9 made that statement -- you know what I mean? She
10 is a government official, and she is supposed to
11 uphold her honor and integrity as a government
12 official.

13 He actually said okay. I came back within the
14 seven-day period to sign a plea. That's what I
15 reasonably expected and thought. I mean, I'm not a
16 lawyer. I don't know.

17 But that's what I come that day to do, was to
18 sign a plea for ten years, and that's what I would
19 have done if the plea had not been changed. You
20 know what I mean?

21 Q I understand. The solicitor actually put that on
22 the record at your January 27, 2010, hearing;
23 correct?

24 A She tried to unilaterally draw out of the plea at
25 January 27th, which is however much longer. You

1 see what I mean? That's over a month longer. But
2 see before that ever happened, that January 27th,
3 as Sarah can tell you herself, there was other
4 pleas made; and she refused to give me the plea
5 back, the ten-year plea she had promised on that
6 date.

7 If she had never changed that plea, then I
8 would have signed it. That's the whole thing. Why
9 would I want -- they tried to make me go to trial.
10 Why would I want to go to trial on charges that I
11 signed statements on myself to say I'm guilty?

12 I helped recover the items in the burglary
13 case. My aunt even wanted the burglary charge
14 dropped because she got most of her stuff back. I
15 was trying to get -- I was trying get some
16 witnesses called here and have her testify to that,
17 but that didn't happen.

18 Q Thank you. I have no further questions.

19 THE COURT: Any redirect?

20 REDIRECT EXAMINATION

21 BY MS. ZMROCZEK:

22 Q Mr. Deaton, you understand that the P.C.R. process
23 is simply for complaints against --

24 A I understand. It's for errors, constitutional
25 errors, complaints. Yes, I understand that.

WILLIAM DEATON -- REDIRECT -- MS. ZMROCZEK

16

1 MS. ZMROCZEK: Your Honor, that' all I have at
2 this point. I believe we would like to put into the
3 record his statement.

4 THE COURT: If you would mark it for the
5 record.

6 COURT REPORTER: Yes, sir.

7 THE WITNESS: Do I need to read it?

8 MS. ZMROCZEK: The Court gets all this.

9 THE WITNESS: I understand. I understand. I
10 was supposed to have a second degree burglary to start
11 with. That's what the officers promised me. It will be
12 in there.

13 COURT REPORTER: Judge, am I supposed to take
14 all this down?

15 THE COURT: Mr. Zmroczek, why don't you mark
16 those over there. All this is not on the record.

17 MS. ZMROCZEK: Yes, sir. Come down.

18 (Witness leaves the witness stand.)

19 (Applicant's Exhibit Number 1-3 are marked for
20 identification).

21 THE COURT: Any other witnesses on your
22 behalf?

23 MS. ZMROCZEK: That's all we have at this
24 time.

25 (Witness leaves the witness stand.)

1 THE COURT: Ms. May.

2 MS. MAY: The State would like to call
3 Ms. Hahn.

4 THE COURT: Ms. Hahn, come forward, please,
5 and be sworn.

6 SARAH HAHN, being
7 first duly sworn, testifies as follows:

8 CLERK: State your name for the record,
9 please.

10 THE WITNESS: My name is Sarah Hahn.

11 **DIRECT EXAMINATION**

12 BY MS. MAY:

13 Q Ms. Hahn, were you appointed to represent
14 Mr. Deaton?

15 A I was.

16 Q Do you recall around what time you were appointed
17 to represent him?

18 A I received his case on August 20, 2009.

19 Q During your initial meetings with Mr. Deaton, what
20 would you have discussed with him?

21 A If I may refer to my notes. I met with him for the
22 first time on September 2nd of 2009. I reviewed
23 the charges that he was facing, the penalties for
24 those, his trial rights, and explained what the
25 elements of the crimes were.

SARAH HAHN -- DIRECT -- MS. MAY

18

1 I met with him again on October 30, 2009. At
2 that point we reviewed the discovery materials the
3 solicitor had given us. The solicitor had given a
4 plea offer by that time, and I believe that I would
5 have reviewed that with him then. Because I had
6 another note that I asked the solicitor after that
7 for an additional plea offer that he requested.

8 Q Do you recall the terms of that initial plea offer?

9 A I do. That offer was to plead to one count of
10 armed robbery and one count of burglary second.
11 At that point the solicitor was not opposed to the
12 minimum sentence if he entered a guilty plea.

13 Q And you advised Mr. Deaton of the terms of that
14 offer?

15 A I did. I would say too the original offer was that
16 he would have been allowed to plead in front of
17 Judge Cothran who has a reputation of being a
18 lenient sentencer.

19 I reviewed the offer with him. I reviewed it
20 with him again on December 2nd as well and told him
21 that if he rejected the offer -- he had asked me
22 what would happen if he didn't take the offer. I
23 told him that I couldn't tell him that, that it
24 might improve, it might be worse, or both.

25 He told me that he rejected the offer, and he

1 would plead to attempted armed robbery for a cap of
2 five years or drug court with probation. I told
3 him that was unlikely to happen.

4 On December 12th I had gotten word from the
5 solicitor sometime before that, that Angela had
6 revoked her offer. On the 10th I advised him at
7 the jail that she had revoked the offer. The
8 trials were sent for January and February; that I
9 didn't know if she would try the case; and if he
10 changed his mind about the offer, to let me know so
11 I could talk to Angela again.

12 On the 14th he had the bond hearing that was
13 mentioned earlier. After that I reviewed the offer
14 with him again on December 15th. At that time it
15 was still in place. I told him then it was going
16 to be his last chance to accept the offer. He
17 again rejected the offer at that point.

18 Q At the bond hearing, the solicitor -- the offer to
19 her not opposing the ten-year minimum was back on
20 the table?

21 A My recollection is that the offer would have
22 remained the same as the initial offer at that
23 point.

24 THE COURT: Which was one armed robbery and a
25 burglary second?

SARAH HAHN -- DIRECT -- MS. MAY

20

1 THE WITNESS: That's right, armed robbery and
2 burglary second.

3 THE COURT: With minimum sentence?

4 THE WITNESS: She would have told the judge
5 she wasn't opposed to the minimum, although she wasn't
6 making an official recommendation.

7 THE COURT: So it was not negotiated?

8 THE WITNESS: That's right.

9 A After that on the 21st, I received a call from
10 Angela. She indicated that his family had left her
11 a telephone message indicating that Mr. Deaton
12 would plead to armed robbery and the burglary, the
13 same offer with no opposition to minimum.

14 I talked to him about the offer then, the same
15 day -- oh, let me back up. My note says on that
16 day she told me she was no longer not opposed to
17 the minimum sentence.

18 I think that that was around the time that the
19 Solicitor's Office internal policy changed, and
20 they were no longer recommending sentences. She
21 didn't want to say that she was not opposed to
22 that.

23 So I explained the offer to him the same day,
24 the 21st of December, 2009. He said he wanted to
25 plead I told him the offer was the same, except

1 that the solicitor would now not say that she was
2 not opposed to the minimum.

3 After that on the 6th, at some point he had
4 rejected that offer. I don't have a note as to
5 that. But I talked to the solicitor again on the
6 6th of January. She told me that she had changed
7 the offer, and now it would be burglary first and
8 armed robbery because he didn't take the initial
9 offer.

10 On the 8th I explained that to him, that there
11 was -- he needed to give me an answer on that by
12 that Wednesday. On the 14th the solicitor brought
13 him to court because he had indicated at some point
14 before that that he wanted to enter a plea.

15 Actually if I may back up, I found my other
16 note. I talked to him at the jail on the 21st. He
17 told me that he accepted the offer. I got back to
18 the office and got a message from him saying that
19 he wouldn't do that, but he would plead to
20 attempted armed robbery, which, again, was not part
21 of the offer.

22 On the 22nd we were in court, and he told me
23 he didn't know whether he wanted to accept it, he
24 wanted to know what Ms. Garrick was recommending.
25 I told him there was no recommendation on the case.

SARAH HAHN -- DIRECT -- MS. MAY

22

1 Since the policy had changed, she wouldn't say that
2 anymore.

3 I told him I would ask for the minimum and
4 tell the judge that initially Ms. Garrick had not
5 been oppose to the minimum sentence. While he was
6 in court, he asked me twice to ask for the plea to
7 attempted armed robbery. Both times the solicitor
8 declined that.

9 While we were sitting in court, she gave him
10 an extra 45 minutes to think about that. At the
11 end of that time, the victims got up to leave the
12 courtroom. He told me that he accepted the offer.
13 I followed Ms. Garrick out of the courtroom and
14 asked her again for the same deal.

15 I got the paperwork from her. I took it to
16 him to see if he would sign. He said he wasn't
17 going to sign it. He told me he wanted more time
18 to think about it. Angela said she wasn't going to
19 do that.

20 I left court and asked her again if she would
21 let us do that. She said the deal was off at that
22 time. He again asked me to ask if she would take
23 the deal. I went back to the Solicitor's Office.
24 She said no -- my note says before I even asked
25 her. I told him that I was going to be working on

1 the trial and would be working on his case.

2 Q So prior to Mr. Deaton coming to court, he was
3 aware that the State was not going to not oppose
4 the ten-year minimum; is that correct?

5 A Initially he knew that.

6 Q Right. And during your discussions about the plea
7 negotiations and the changes, do you feel that
8 Mr. Deaton understood those discussions?

9 A I did. He told me that he had some mental health
10 problems. I met with him on numerous occasions.
11 At no point did I think any mental health issues he
12 may have had rose to the level that would have
13 interfered with his competency or his understanding
14 of what was going on.

15 Q Did you ever promise Mr. Deaton a certain sentence
16 that he would receive?

17 A No.

18 Q And did you ever promise him that the solicitor
19 would not oppose the minimum after that had
20 changed?

21 A That's right. After she revoked the part of her
22 offer, I never extended that to him again.

23 Q And at the January 27, 2010, plea, the prior plea
24 negotiations were put on the record; correct? Do
25 you recall that?

SARAH HAHN -- DIRECT -- MS. MAY

24

1 A I don't remember.

2 Q I believe Ms. Garrick, she stated the original
3 offer and then stated the plea negotiations broke
4 down and -- it was your understanding of them
5 breaking down what you just described to us,
6 Mr. Deaton going back and forth?

7 A That's right. I don't remember her saying that,
8 but that's what happened. So if she did say that,
9 that would have been an accurate statement.

10 Q And you say Mr. Deaton was looking for a sentence
11 around five years or probation?

12 A That's what he told me.

13 Q Were you prepared to go to trial on January 27--

14 A I was.

15 Q -- 2010. And later on, two days later, in
16 January 2010, Mr. Deaton pled to the plea that was
17 the burglary first?

18 A That's right.

19 Q And going into that plea, was Mr. Deaton fully
20 aware that he was going to plead to burglary first?

21 A That was my understanding. I felt like he
22 understood what was going on at that point.

23 Q And then I believe y'all made a motion to
24 reconsider his sentence?

25 A We did.

1 Q There was a hearing on that?

2 A Yes.

3 Q And you were successful in getting his sentence
4 reduced?

5 A That's right.

6 Q Is there anything else that you would like to tell
7 the Court that I haven't asked?

8 A Not that I can think of.

9 MS. MAY: I have no further questions, Your
10 Honor.

11 THE COURT: Ms. Zmroczek.

12 MS. ZMROCZEK: I have one question.

13 **CROSS EXAMINATION**

14 BY MS. ZMROCZEK:

15 Q Ms. Hahn, you don't dispute that the first offer
16 that he accepted was to a minimum sentence of ten
17 years; correct?

18 A I do. The solicitor would have said that she
19 wasn't opposed to the minimum. The judge still
20 would have decided the sentence, up to the maximum
21 on each.

22 MS. ZMROCZEK: That's all the questions I
23 have.

24 THE COURT: Thank you. You may step down.

25 (Witness leaves the witness stand.)

1 THE COURT: Anything further?

2 MS. MAY: Nothing further from the State.

3 THE COURT: I will take this under advisement.

4 I will read what the plaintiff put in.

5 MS. ZMROCZEK: Thank you, Your Honor.

6 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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C E R T I F I C A T E

I, the undersigned L. Coconut Pantsari, Official Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal, in the Civil Court for Lexington County, South Carolina on the 15th day of August, 2012.

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

October 7, 2012

L Coconut Pantsari

Court Reporter

ORIGINAL¹²³⁽²⁾

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

William Patrick Deaton, #340130,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

2013 JUN 14 A 11:46 2010-CP-32-5311

BY: A. CHURCH
CLERK OF COURT
LEXINGTON, SC
ORDER OF DISMISSAL

S.C. SUPREME COURT

APR 18 2013

RECEIVED

This matter comes before the Court pursuant to an application for post-conviction relief (PCR) filed December 14, 2010. Respondent made its Return on February 28, 2011. An evidentiary hearing into the matter was convened on August 15, 2012 at the Lexington County Courthouse. The Applicant was present at the hearing and was represented by Aimee J. Zmroczek, Esquire. The Respondent was represented by Kaelon E. May of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Applicant's counsel, Sarah A. Hahn, Esquire. This Court also had before it the records of the Lexington County Clerk of Court, the transcript of the proceedings against the Applicant, the Applicant's records from the South Carolina Department of Corrections, and the exhibits entered into evidence at the hearing.

I. PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. The Applicant was indicted at the October 2009 term of the Lexington County Grand Jury for burglary—first degree

(2009-GS-32-2769). He was represented by Sarah A. Hahn, Esquire. On October 14, 2009, the Applicant pled guilty as charged. The Honorable Thomas A. Russo sentenced Applicant to sixteen years confinement for armed robbery and fifteen years confinement for burglary—first.

At the August 15, 2012 evidentiary hearing, Applicant proceeded on one allegation of ineffective assistance of counsel: (1) failure to make a motion to enforce the guilty plea agreement.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80.

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). 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 v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation

within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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BETH A. GARRIG
CLERK OF COURT
LEXINGTON, SC

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland, supra). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland). With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Failure to enforce a guilty plea agreement

This Court finds Applicant's allegation that that counsel was ineffective for failing to make a motion to enforce the original plea agreement was without merit. This Court finds counsel's testimony more credible than Applicant's testimony. The State's guilty plea offer included a recommendation that it was not opposed to guilty plea court imposing to the minimum ten year term of imprisonment for burglary—second and armed. Counsel conveyed the offer to Applicant and advised him that guilty plea court could ignore the State's

recommendation. Counsel testified the Applicant initially refused to accept any guilty plea offer that was harsher than five years imprisonment for attempted armed robbery and probation for the burglary charge.

Applicant changed course informed counsel that he wished to accept the guilty plea offer. Upon conveying to the solicitor that Applicant had decided to accept the guilty plea offer, counsel learned the original plea offer had been modified due to internal policies of the solicitor's office. The original offer was still available absent the State's unofficial recommendation. Counsel conveyed the modified guilty plea offer to the Applicant which the Applicant refused to accept. Yet, Applicant argues the State revoked the guilty plea agreement after his oral acceptance. The State withdrew the guilty plea offer. On January 29, 2010, Applicant pled guilty as charged to burglary—first and armed robbery.

This Court finds Applicant failed to meet his burden to prove. Applicant failed to prove that counsel was ineffective for not making a motion to enforce the guilty plea agreement. A defendant has no constitutional right to a plea bargain. Santobello v. New York, 404 U.S. 257, 262, 92 S.Ct. 495, 498 (1971) A plea agreement is only an "offer" until the defendant enters a court-approved guilty plea. A defendant accepts the "offer" by pleading guilty. Until formal acceptance has occurred, the plea is not binding on the defendant, the State, or the court. Reed v. Becka, 333 S.C. 676, 683, 511 S.E.2d 396, 400 (Ct. App. 1999). The decision whether to offer a plea bargain was within the solicitor's discretion. State v. Johnson, 287 S.C. 171, 337 S.E.2d 204, 205 (1985). This Court finds counsel conveyed all plea negotiations to Applicant and reasonably advised him on consequences of accepting and rejecting the State's guilty plea offer.

Applicant completely failed to meet his burden in establishing he detrimentally relied on the guilty plea agreement. Absent an actual plea of guilty, a defendant may enforce an oral plea agreement only upon a showing of detrimental reliance on a prosecutorial promise in plea bargaining. Custodio v. State, 373 S.C. 4, 10, 644 S.E.2d 36, 39 (2007). Applicant simply failed to present any evidence that by allegedly accepting the State's original plea offer he was induced to act adversely to his legal detriment.

Accordingly, this Court finds Applicant has failed to prove the first prong of the Strickland test – that counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions in his representation of Applicant. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by counsel's performance. This Court concludes Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Claims

Except as discussed above, this Court finds that the Applicant affirmatively waived the remaining allegations set forth in his application at the hearing. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's

failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

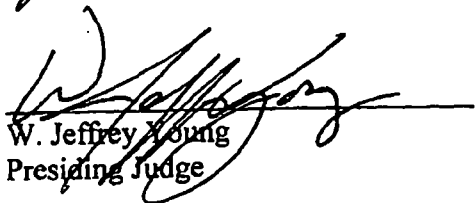
III. CONCLUSION

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 4th day of January, 2012. 2013


W. Jeffrey Young
Presiding Judge

Sumter, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON) ELEVENTH JUDICIAL CIRCUIT

William Patrick Deaton, #340130,)
Applicant,) 2010-CP-32-5311
v.) NOTICE OF APPEAL
State of South Carolina,)
Respondent.)

Notice is hereby given that William Patrick Deaton, #340130, Applicant in the above-captioned matter, hereby appeals the judgment and order of the Honorable W. Jeffrey Young, Circuit Court Judge, entered in this matter on January 4, 2013.

Applicant received written notice of this order April 1, 2013.

Respectfully submitted this 12th day of April 2013.

RECEIVED
APR 18 2013
S.C. SUPREME COURT

William P. Deaton
William Patrick Deaton, #340130
Lieber C.I., SA-09
P.O. Box 205.
Ridgeville, SC 29472-0205
Applicant, pro se

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

) IN THE COURT OF COMMON PLEAS

) ELEVENTH JUDICIAL CIRCUIT

William Patrick Deaton, #340130,)

2010-CP-32-5311

Applicant,)

AFFIDAVIT OF SERVICE BY MAIL

v.)

State of South Carolina,)

Respondent.)

Personally appeared before me, William Patrick Deaton, #340130, who being first duly sworn, does hereby depose and state the following:

1. That I am the Applicant in the above-captioned matter.
2. That regular communication by mail exists throughout the State of South Carolina, and that this is a proper circumstance of service by mail.
3. That I have on the date listed below served a copy of the Notice of Appeal in this matter on Respondent by placing one copy in the United States mail, first class postage prepaid, and addressed as follows:

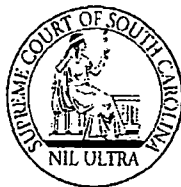
Alan Wilson
SC Attorney General
P.O. Box 11549
Columbia, SC 29211-1549

This 12th day of April, 2013

William P. Deaton
William Patrick Deaton, #340130

SWORN to before me this
12th day of April, 2013.

Ludeman Bryant
Notary Public for South Carolina
My Commission Expires: May 26, 2020



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211

1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1080

FAX: (803) 734-1499

www.sccourts.org

April 22, 2013

Ms. Aimee Jendrzewski Zmroczek
PO Box 11961
Columbia SC 29211

Re: William Patrick Deaton v. State
Appellate Case No. 2013-000812
Lower Court Case No. 2010-CP-32-05311

Dear Counsel:

This Court has received a notice of appeal from your client from the order of dismissal dated January 4, 2013. This notice of appeal is dated April 12, 2013, and the proof of service indicates that it was served that same day.

This matter has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter. I remind you that under Rule 71.1(g) of the South Carolina Rules of Civil Procedure that you remain his counsel of record before this Court.

To determine the timeliness of this *pro se* notice of appeal, you will need to advise this Court of the date on which you received written notice of the entry of the order of dismissal dated January 4, 2013. It appears that this order was entered by the clerk of the circuit court on January 14, 2013. This information should be provided to this Court within ten (10) days of the date of this letter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR).

The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/HTMLFiles/2007-08-13-02.htm. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a series of loops and a long horizontal stroke extending to the right.

CLERK

cc: John Walter Whitmire, Esquire
Mr. William Patrick Deaton, #340130

A. J. Z. Law Firm, LLC

Mailing Address
P.O. Box 11961
Columbia, SC 29211

Phone: (803) 400-1918
Fax: (803) 403-8005

Physical Address
1330 Lady Street, Suite 400
Columbia, South Carolina 29201

Aimee J. Zmroczek, Attorney
ajzlawfirm@gmail.com

Christina Metze, paralegal
christina.ajzlawfirm@gmail.com

M. Wade Downtin, Attorney
wade.ajzlawfirm@gmail.com

May 3, 2013

RECEIVED

MAY 06 2013

S.C. SUPREME COURT

Daniel E. Shearhouse
Clerk of Court
P.O. Box 11330
Columbia, SC 29211

RE: William Patrick Deaton v. State
Appellate Case No. 2013-00812
Lower Court Case No. 2010-CP-32-05311

Dear Mr. Shearhouse:

This letter is in response to the correspondence I received April 23, 2013. Pursuant to the request in the letter, I am advising this Court that I received the Order from the Lower Court on January 15, 2013, and promptly forwarded a copy of the same with the attached letter. (Exhibit A) I received additional correspondence from Mr. Deaton on March 7, 2013, (Exhibit B) and responded March 27, 2013. (Exhibit C)

Please contact me should you have additional questions.

Best regards,



Aimee J. Zmroczek

With enclosures

William Deaton, #00340130
LEGAL MAIL
Lieber Correctional Institution
PO Box 205
Ridgeville, SC 29472

A. J. Z. Law Firm, LLC

Mailing Address
P.O. Box 11961
Columbia, SC 29211

Physical Address
1330 Lady Street, Suite 400
Columbia, South Carolina 29201

Phone: (803) 400-1918
Fax: (803) 403-8005

Aimee J. Zmroczek, Attorney
ajzlawfirm@gmail.com

Christina Metze, paralegal
christina.ajzlawfirm@gmail.com

M. Wade Dowtin, Attorney
wade.ajzlawfirm@gmail.com

January 15, 2013

William Deaton, #00340130
LEGAL MAIL
Lieber Correctional Institution
PO Box 205
Ridgeville, SC 29472

RECEIVED

MAY 06 2013

RE: Deaton v. State

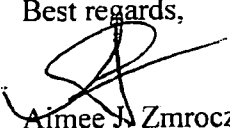
S.C. SUPREME COURT

Dear Mr. Deaton:

Enclosed please find a copy of the order dismissing your PCR. You have thirty (30) days in which to appeal and you need to let me know your decision. If I do not hear from you within that time period, I will consider this matter closed and your file will be closed in my office.

Please contact me should you have additional questions.

Best regards,


Aimee J. Zmroczek

With enclosures

Exhibit A

Hi AIMEE,

2/35/12

How are you, I hope well. I Just got the post card that your Firm has aquired a new member or Associate, glad that things are looking up for you. Its been seven months now since we went to P.C.R. Court, have you heard anything is of yet? Also, since we saw each other I've had some major Health issues that have happened; I've lost my hearing in my right Ear due to negligence and two months ago had something happen when I passed out coming out of the shower. Still have not seen a Doctor to this day. I had lost all movement on my left side and was in a really bad condition, I was given one Blood pressure pill blood pressure at time was 220-120) and Five tylenol and sent back to the dorm in an upstairs room, have been moved after 2 weeks of having to get someone to help me up and down stairs. Lost most of the vision in my left eye (got some back) And still have many physical symptoms that have lingered since. I don't know if it was a stroke or heart problem still numb in left side, and Headaches really Bad, Heart, left arm, and neck on left side stay in pain, at night its alot worse. I've pleaded with Staff here and my sister has called, but I still have not recieved any help. Can you help me, or do you know someone who could be interested in pursuing this. I really need a lawyer! Thanks for your Time, you are in my prayers.

S. Sister Has record of this.

William Dector (803) 223-5647

Exhibit B

Sincerely
William Dector
William Dector 34013

①

Aimee, I've kept a log of things that were happening to me physically prior to this incident, and copies of request signed by medical staff, Doctor, and ~~institutional~~ Institutional Staff, explaining what was happening and trying to get help that they denied, for almost 8 months now I've been trying to get help. Because of all of this I've lost my Right EAR hearing, most of vision in left eye, and still am messed up from whatever happened on Jan. 12th their denying help and my Blood pressure medicine and neurotin that's for neurological problems given by specialist on street and in Columbia Medical Department. Most of all I need to see a specialist and have test to find out what's wrong with me.

(3)

There's a lot more to all of this
I've got paper work, and other
things as well written down about
all of this. I've gotten somewhat
better but I need to see a
Doctor and get the proper treatment
But the Hearing loss and loss
of vision I want ever get Back
and have lost some mobility in arm
and leg on left side. Can't process
information right since and just
physically weak and a lot of things
just are not getting better.
I hope you can help

Willie
Dixon

A. J. Z. Law Firm, LLC

Mailing Address
P.O. Box 11961
Columbia, SC 29211

Physical Address
1330 Lady Street, Suite 400
Columbia, South Carolina 29201

Phone: (803) 400-1918
Fax: (803) 403-8005

Aimee J. Zmroczek, Attorney
ajzlawfirm@gmail.com

Christina Metze, paralegal
christina.ajzlawfirm@gmail.com

M. Wade Downtin, Attorney
wade.ajzlawfirm@gmail.com

March 27, 2013

William Deaton, #00340130
LEGAL MAIL
Lieber Correctional Institution
PO Box 205
Ridgeville, SC 29472

RE: Deaton v. State

Dear Mr. Deaton:

I am in receipt of your letter dated March 5, 2013. I am confused because we sent you a copy of the order of dismissal on January 15, 2013. I am enclosing another copy of that letter and dismissal. The time to appeal has passed and there is nothing that can be done for your case at this time. I am sorry to hear about your health issues, but you have to address those with the department of corrections. I would suggest you document everything in writing to the department of corrections with regards to your health and continue to seek and request proper medical treatment.

I have closed your file in my office and wish you the best of luck.

Best regards,


Aimee J. Zmroczek

With enclosures

Exhibit C

The Supreme Court of South Carolina

William Patrick Deaton, Petitioner,

v.

State of South Carolina, Respondent.

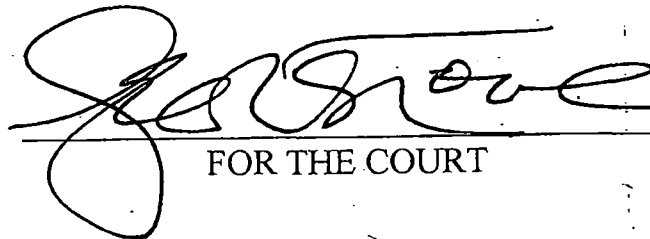
Appellate Case No. 2013-000812

ORDER

The *pro se* notice of appeal in this matter is dated April 12, 2013, and the proof of service indicates that it was served that same day on opposing counsel. The order being appealed is dated January 4, 2013, and was filed with the clerk of the circuit court on January 14, 2013.

Counsel for petitioner has advised this Court that she received written notice of entry of the order on appeal on January 15, 2013. Therefore, the notice has not been timely served on opposing counsel under Rules 243 and 203, SCACR.

Accordingly, the notice of appeal is dismissed. The remittitur will be sent as provided by Rule 221, SCACR.

 C.J.
FOR THE COURT

Columbia, South Carolina
May 29, 2013

cc: Aimee Jendrzewski Zmroczek, Esquire
John Walter Whitmire
Mr. William Patrick Deaton, #340130

June 3, 2013

William P. Deaton, #340130
Lieber C.I., SA-09
P.O. Box 205
Ridgeville, SC 29472-0205

RECEIVED

JUN 10 2013

S.C. SUPREME COURT

Daniel E. Shearhouse, Clerk
SC Supreme Court
P.O. Box 11330
Columbia, SC 29211-1330

Re: William Patrick Deaton v. State of South Carolina
Appellate Case No. 2013-000812

Dear Mr. Shearhouse:

I hereby request the Court to reconsider the Order of May 29, 2013 in the above referenced matter based on the following.

My March 7, 2013 correspondence to Counsel Zmroczek (Counsel's Exhibit B) was prompted because I had not heard from her after the conclusion of my post-conviction relief (PCR) hearing.

After receiving her March 27, 2013 response (Counsel's Exhibit C) I contacted the Lieber Correctional Institution (LCI) mail room and was informed that no legal mail addressed to me was received at LCI from January 2, 2013 through February 2, 2013 (Please see attached SOUTH CAROLINA DEPARTMENT OF CORRECTIONS REQUEST TO STAFF MEMBER). I simply did not receive Counsel Zmroczek's January 15, 2013 correspondence (Counsel's Exhibit A). However, upon receipt of Counsel's March 27, 2013 correspondence and a copy of the PCR court's order I filed the notice of appeal and proof of service pro se.

I request the Court reconsider the decision of May 29, 2013 based on the above and find the notice of appeal to be timely served. Respondent would suffer no prejudice with such a finding; however, if left as is Petitioner will suffer prejudice in that he will be forced to begin the PCR process again through no fault of his own. This will create an unnecessary and unreasonable delay in Petitioner's case and waste valuable judicial resources.

Respectfully submitted,

William P. Deaton #340130

William P. Deaton

cc: Alan Wilson
SC Attorney General

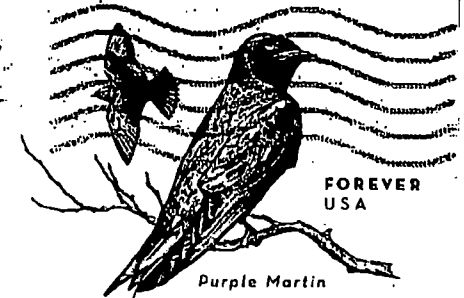
**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

Date 4-2-13	TO: (Name and Title of Staff Member) ~~Mail Room~~ Miss Jones	
SCDC # 340130	NAME William P. Deaton	
WORK ASSIGNMENT PI-1	LIVING QUARTERS SA-9	RECEIVED JUN 10 2013
REQUEST (State completely, giving full details. Use back of page if necessary)		
Hi, I recieved legal mail from my lawyer this evening. (A.J.2 Law Firm) She's saying I recieved legal mail from her in January (15th-18th), it was a very important letter that was for me to decide about putting in for a appeal, which I had 30 days to file. I never recieved any legal Mail from Her concerning any of this. Can I have a copy of incoming legal mail I've recieved to show the courts, to prove I never recieved any mail from the A.J.2 Law Firm. Sincerely William Deaton		
DISPOSITION BY STAFF MEMBER		
Checked logs from Jan 2, 2013 thru Feb 2, 2013. Cannot find anything. Cannot give you copies of legal log even if we did find something. Must be requested to AG's by atty or subpoenaed by the courts!		
DATE 4/2/2013	SIGNATURE S Jones	

William Deaton #340130
Lieber, C.I. P.O. Box 205/SA-9
Ridgelyville, S.C. 29472

CHARLESTON SC 294

06 JUN 2013 PM 3 T



RECEIVED

JUN 06 2013
MAIL ROOM
LIEBER C.I.

Daniel E. Spear Howe, Clerk
S.C. Supreme Court
P.O. Box 11330
Columbia, S.C. 29211-1330

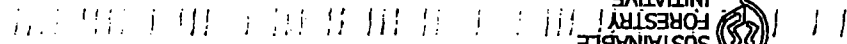
"Legal Mail"

29211+1330



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THE DEPARTMENT OF JUSTICE
CENSORED NOR INSPECTED THIS ITEM, THEREFORE
THE DEPARTMENT DOES NOT ASSUME RESPONSIBILITY
FOR ITS CONTENTS
LIEBER CONSTITUTIONAL INSTITUTE
A 501(c)(3) NON-PROFIT ORGANIZATION

The Supreme Court of South Carolina

William Patrick Deaton, Petitioner,

v.

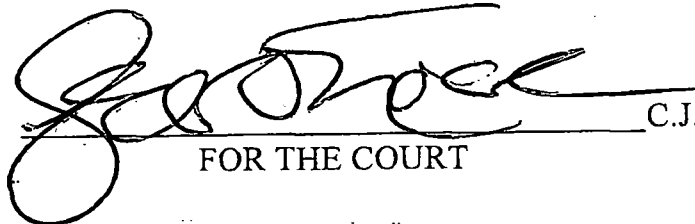
State of South Carolina, Respondent.

Appellate Case No. 2013-000812

ORDER

Petitioner's application for post-conviction relief (PCR) was denied on January 4, 2013. Petitioner served a *pro se* Notice of Appeal from the order on April 12, 2013. Because PCR counsel indicated she received the PCR order on January 15, 2013, and the Notice of Appeal was not served within thirty days after that date, the Notice of Appeal was dismissed on March 29, 2013.

Petitioner has now filed a *pro se* request for the Court to reconsider the order of dismissal. The motion for reconsideration is denied without prejudice to petitioner's right to seek relief pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991).



C.J.
FOR THE COURT

Beatty, J., not participating

Columbia, South Carolina

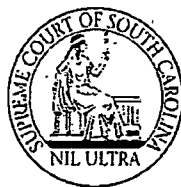
July 11, 2013

cc:

Aimee Jendrzewski Zmroczek, Esquire

John Walter Whitmire, Esquire

William Patrick Deaton, #340130



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

July 11, 2013

The Honorable Beth Carrigg
205 E Main St Ste 146
Lexington SC 29072-3557

REMITTITUR

Re: William Patrick Deaton v. State
Lower Court Case No. 2010CP3205311
Appellate Case No. 2013-000812

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

CLERK



cc: Aimee Jendrzewski Zmroczek, Esquire
John Walter Whitmire, Esquire
William Patrick Deaton, #340130

FORM 5

ORIGINAL

STATE OF SOUTH CAROLINA

COUNTY OF LexingtonWilliam Patrick Deaton
Full name and prison number (if any) of Applicant.# 340130

v.

State of South Carolina

FILED IN THE COURT OF COMMON PLEAS

2013 AUG -2 A 11: 21

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

APPLICATION FOR

POST-CONVICTION RELIEF

2013 CP 3202614**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 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 Lieber Correctional Facility
2. Name and location of Court which imposed sentence Lexington Court of General Sessions
3. Name(s) of co-defendant(s) (if any) Carrie Lynn Smith
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009 GS 3202764 First Degree Burglary
 - (b) 2009 GS 3202769 Armed Robbery with Deadly Weapon
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) January 29 2010 Fifteen years
 - (b) January 27 2010 Sixteen years Reduced to 12 years

Revised 3/2003

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & F.C.

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No (was not notified)
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result: 2013 CP 3202614
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Attorney failed to notify, thought she did but didn't
- (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 PCR Counsel
- (b) _____
- (c) _____

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

- (a) PCR Counsel failed to serve and file Notice of Appeal
- (b) _____
- (c) _____

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

- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? YES
- (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. Application for Post Conviction Relief
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. Lexington County Court of Common Pleas
- ii. _____
- iii. _____
- iv. _____
- (c) the disposition thereof:
- i. Application Dismissed
- ii. _____
- iii. _____

2013 AUG -2 A 11:27
 BETH A. CARRIGG
 CLERK OF COURT
 LEXINGTON SC
 RECORDED 3/20/13

- iv. _____
- (d) the date of each such disposition:
- i. January 4, 2013
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. Order in Case Number 2010-CP-32-5311
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- NO
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) _____
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:

FILED
2013 AUG - 2 A 11 21
BETH A. CARRIS
CLERK OF COURT
LEXINGTON SC

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

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

- (a) the name and address of each attorney who represented you:
- i. AJZ Law Firm Aimee J. Zmroczek P.O. Box 11961 / Columbia, S.C. 29211
- ii. 1330 Lady Street Suite 400 Columbia, S.C. 29201
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Application for Post Conviction Relief
- ii. _____
- iii. _____

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

Reinstate P.C.R. Appeal

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

NO

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

2013 AUG -2 A 11:26

FILED

STATE OF SOUTH CAROLINA)

County of Dorchester)

VERIFICATION

I, , 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.

Will P. Dector

SWORN to and subscribed before me this 30th
day of July, 2013

Quadrone Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

BETH A. CARRIGS
CLERK OF COURT
LEXINGTON SC

2013 AUG -2 A 11: 21

FILED

2013 CP 3202614

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

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

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

William P. Deaton #340130
Applicant

SWORN or affirmed to and subscribed before me this
30th day of July, 2013.

Ludheen Bryant
Notary Public

My Commission Expires: May 26, 2020

2013 CP 3207614

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC

2013 AUG -2 A 11: 20

FILED

William Deaton #340130
Lieber C.I. P.O. Box 205 / SA-9
Ridgeville, S.C. 29472

CHARLESTON

31 JUL 2013

2013 CP 320261

2 1M 2013
104236172 JUL 30 2013
MAILED FROM ZIP 29472
\$00.20
FIRST CLASS
PRIME BOWES



RECEIVED
JUL 30 2013
MAIL ROOM
LIEBER C.I.

Beth Carrigg
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Lexington S.C.

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CLERK OF COURT
LEXINGTON SC

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Original

5154 State of South Carolina

County of Lexington

William Patrick Reese Deaton
#340130

v.

State of South Carolina
Respondent

IN COURT OF COMMON PLEAS

2013-CP-32-02614

Amendment To:

Post Conviction Relief Application
Pursuant to 15(a) SCRPC

ORIGINAL

Come Now William Patrick Deaton the applicant, prose, and respectfully
files this Amendment to His Post Conviction Relief Application,
Pursuant to South Carolina Rules of Civil Procedure Rule 15(a).

This amended PCR Application is timely-

The Respondant has not filed a responsive pleading nor has Counsel
been appointed.

Applicant will show this Court as follows:

1) P.C.R. Attorney failed to notify of Dismissal of P.C.R. and failed to file 59(E) and/or Appeal as asked to:

A) Wrote P.C.R. Attorney 21 days after P.C.R. asking her to file 59(E) and/or Appeal upon dismissal.

2) P.C.R. Judge failed to allow Applicant to testify completely, and get all issues on record; A Buse of Discretion; and make specific findings on each allegation to be raised at proceedings. No Fair Bite at Apple.

A) While on stand testifying on my own behalf. P.C.R. Judge cut me off from testifying to ALL ALLEGATIONS, Couldn't therefore show proof of each issue, And stated he would make sure "Everything would go on record" but didn't, Each allegation was not ruled on as follows.

3) Failure To File Appeal, Trial Attorney failed to file appeal on Guilty plea as asked.
(A) Sara Hahn Trial Attorney didn't file appeal.

(4) Failure to enforce Unkept Plea Agreement;
A) Trial Attorney didn't inform Judge Plea agreement had been broken by Solicitor, after Trial Judge had accepted terms of agreement.

5) Unsigned Warrant:

(4) Warrant of Charges convicted of where never signed by Judge or Anybody.

6) ILLEGAL Interrogation:

(A) Never signed waiver of Miranda rights allowing officer to interrogate, while I was incarcerated without Attorney present.

7) Solicitor presented False Evidence at Guilty Plea hearing:

(A) Solicitor testified I had felony record prior to, but record show I had none prior to these charges.

8) Unable to properly participate in negotiations due to amount of psychiatric medications; and mental condition a big factor in deciding case.

A) Have list of all medication prescribed during negotiations to show merit to claim.

B) In Original brief to be testified reason, mental condition is a big factor in deciding case.

Wherefore, based on the above allegations, the applicant moves this Court to: Alternatively, appoint ~~a~~ counsel and conduct an Evidentiary hearing to resolve factual disputes.

Respectfully submitted
on this ~~January~~ 13th
day of January, 2013

William P. Deaton #340130
Pro-SE REPRESENTATION

FILED
JAN 14 2013
CLERK OF COURT
JAN 14 2013
JAN 14 2013

ORIGINAL

157

State of South Carolina

County of: Dorchester

Verification

I, 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.

William P. Deaton #340030
Applicant

Sworn to and subscribed before me this 13th
day of January, 2014

Rochester Bryant (L.S.)
Notary public

My commission Expires: May 26, 2020

NOTARY PUBLIC
STATE OF SOUTH CAROLINA
COMMISSION EXPIRES
MAY 26, 2020

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

ORIGINAL

I, , here by apply for leave to proceed in this action without prepayment of fees or cost or security ~~therefore~~. IN support of my application I declare under penalty of perjury that the following facts are true:

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

William P. Deaton #340130
Applicant

Sworn or affirmed to and subscribed before me this

13th day of January, 2014

Ludream Bryant
Notary Public

My Commission Expires: May 26, 2020

FILED
2014 JAN 13
8:58 AM
CLERK

William Deaton #340130
Lieber, C.I. P.O. Box 205/SB-44
Ridgeville, S.C. 29472

FIRST CLASS



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FOR LEGAL USE ONLY

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

William Patrick Deaton, #340130,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

2013-CP-32-2614

RETURN

(request appointment of counsel)

In response to the post-conviction relief (PCR) application filed August 2, 2013, the Respondent would show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Lexington County. Applicant was indicted at the October 2009 term of the Lexington County Grand Jury for First Degree Burglary (2009-GS-32-2764) and Armed Robbery with a Deadly Weapon (2009-GS-32-2769). Applicant was represented on the charges by Sarah A. Hahn, Esquire. Applicant pleaded guilty on January 27, 2010 to all charges as indicted. The Honorable Thomas A. Russo sentenced Applicant to sixteen (16) years for Armed Robbery and to a concurrent term of fifteen (15) years confinement for Burglary. Applicant did not appeal his conviction or sentence.

2010-CP-32-5311

Applicant subsequently filed an application for post-conviction relief on December 14, 2010, where he alleged he was being held unlawfully for the following reasons:

1. Ineffective assistance of counsel, in that
 - a. Mitigating facts never presented to court prior to sentencing.
 - b. Counsel failure to enforce a guilty plea agreement.

Respondent filed its return on February 28, 2011. Applicant was represented in his PCR action by Aimee J. Zmroczek, Esquire. An evidentiary hearing was convened on August 5, 2012, before the Honorable W. Jeffrey Young. The State was represented by Assistant Attorney General Kaelon E. May. Applicant was present at the hearing and testified on his own behalf. Also testifying was Applicant's plea counsel, Sarah A. Hahn, Esquire. In an Order of Dismissal filed January 14, 2013, Judge Young found that counsel was not ineffective and dismissed the case with prejudice.

Applicant filed a *pro se* Notice of Appeal on April 12, 2013. The Notice of Appeal was dismissed on March 29, 2013, because it was not served within thirty (30) days. Applicant then filed a *pro se* request for the court to reconsider the order of dismissal. The Supreme Court of South Carolina issued an Order dated July 11, 2013, denying that motion without prejudice to allow Applicant to seek relief pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

II.

In his *second* and current application for post-conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective assistance of PCR counsel."
 - a. "PCR counsel failed to serve and file Notice of Appeal."

For the purpose of this Return, the Respondent incorporates the Clerk of Court records, Applicant's prior PCR records, and the South Carolina Department of Corrections' records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent interprets Applicant's allegations as claims that the Applicant seeks a belated appeal of the denial of his prior PCR application. Respondent submits that this is a successive application. Successive applications are disfavored and the burden is on Applicant to establish

that any new ground raised in a subsequent application could not have been raised by him in a previous application. Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981). However, Applicant alleges that he was denied the right to appeal the dismissal of his previous post-conviction relief application. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), a post-conviction relief applicant may petition the South Carolina Supreme Court for discretionary review of the dismissal of their application. The Respondent lacks sufficient information to admit or deny this allegation. The Respondent requests an evidentiary hearing on this ground for relief. Sharper, Id.; Austin, Id.

IV.

The State therefore requests that this Court convene an evidentiary hearing solely on the issue of whether Applicant was denied a right to appeal his previous PCR action. Respondent denies each allegation that is not expressly admitted, qualified or explained.

V.

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

(signatures on following page)

Respectfully submitted,

ALAN M. WILSON
Attorney General

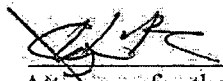
JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. CLAYTON MITCHELL
Staff Attorney

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

By:


Attorneys for the Respondents

Columbia, South Carolina _____, 2014

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

WILLIAM P. DEATON)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent)

IN THE COURT OF COMMON PLEAS
IN THE ELEVENTH CIRCUIT

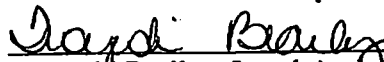
2013-CP-32-2614

AFFIDAVIT OF SERVICE BY MAIL

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

**William P. Deaton, SCDC # 340130
Lieber Correctional Institution
Post Office Box 205
Ridgeville, SC 29472**

DATED this 21th day of May, 2014


Troyesh Brailey, Legal Assistant
For Respondent

1 State of South Carolina

Court of Common Pleas

2 County of Lexington

3

4 William Patrick Deaton,)

Transcript of Record

5 Applicant,)

2013-CP-32-2614

6 vs.)

7

The State of South Carolina.)

8

9

January 14, 2016

Lexington, South Carolina

10

11 B E F O R E:

12 The Honorable J. Mark Hayes, Judge

13

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

15 Patrick Schmeckpeper, Assistant Attorney General
Attorney for the State

16

17 Anna R. Good, Esquire
Attorney for Defendant

18

19

20

Stacy S. Johnson, RPR
Circuit Court Reporter

21

22

23

24

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
Applicant's 1	3/5/13 Letter	7	9
Applicant's 2	3/27/13 Letter	7	10
Applicant's 3	4/1/13 Request	7	10
Applicant's 4	9/6/12 Letter	7	8

P R O C E E D I N G S

(The following proceedings were held on January 14, 2016.)

MR. SCHMECKPEPER: Thank you, Your Honor. May it please the Court? This is William P. Deaton v. The State of South Carolina, 2013-CP-32-2614. Mr. Deaton pled guilty in 2010 to armed robbery and first degree burglary. He received concurrent sentences of fifteen years for burglary and fifteen years for armed robbery. Ultimately he filed an Application for Post-Conviction Relief in 2010 on December 14th. That application was denied; however, his attorney did not file an appeal. I believe Mr. Deaton filed a pro se appeal that was untimely and was ultimately denied.

The allegation here, and I think the only allegation today, is whether or not his PCR counsel was ineffective for failing to file a direct appeal. His PCR counsel is Ms. Zmroczek.

At this point, I'll turn it over to opposing counsel to call their first witness.

MS. GOOD: I call William Deaton.

THE COURT: Place your left hand on the Bible and raise your right hand.

WILLIAM PATRICK DEATON,

having been duly sworn, testified as follows:

1 **THE COURT:** Come around and have a seat in the chair.

2 DIRECT EXAMINATION

3 BY MS. GOOD:

4 Q. Please state your name for the record.

5 A. William Patrick Deaton.

6 Q. And, Mr. Deaton, you heard you originally pled to
7 burglary and armed robbery, correct?

8 A. Yes, ma'am.

9 Q. And as a result of that you filed a PCR application in
10 2010?

11 A. Yes, ma'am.

12 Q. And who was your attorney on that PCR?

13 A. My attorney to begin with was Bill Davis and it was --
14 I mean, on the --

15 Q. On the PCR.

16 A. On the PCR was Bill Davis and it was turned over to
17 Aimee.

18 Q. Okay. Aimee Zmroczek?

19 A. Yes, ma'am.

20 Q. Okay. And you had your PCR hearing on August 15th of
21 2012, correct?

22 A. That's right.

23 Q. And it was dismissed?

24 A. Yes, ma'am.

25 Q. All right. When did you find out that it was

1 dismissed by Judge Young?

2 A. I found out, I think, about eight months later. I'm
3 not sure of the exact date. I wrote Aimee about -- because
4 she sent me a postcard saying that she had changed offices
5 and I wrote her and asked her if she had heard anything yet
6 as far as my case was concerned, she said she had sent me
7 a letter stating that I wanted -- did I want to file an
8 appeal in January, I believe, and -- but I never got the
9 letter and --

10 Q. And at your PCR hearing, did Judge Young make a
11 decision at that hearing?

12 A. No, ma'am.

13 Q. Okay. And at that hearing, after your PCR testimony
14 was given, did you have a conversation with Ms. Zmroczek
15 about whether you wanted an appeal?

16 A. I did.

17 Q. And what was that conversation?

18 A. She said she would immediately put in for the appeal.

19 Q. Okay. And, again, you found out that it ultimately
20 was dismissed in January of 2013?

21 A. That's right.

22 Q. When did you find that out?

23 A. I found out -- I want to say it was April. I want to
24 say April.

25 Q. And what did you do as soon as you found out about it?

1 A. As soon as I got the letter from her saying that she
2 had sent me the letter and it had been dismissed, I
3 immediately filed the paperwork pro se and sent it in to
4 have the appeal reinstated.

5 Q. And did you do anything regarding the mailroom to see
6 if you received any mail?

7 A. Yes, ma'am. I wrote -- because we have a registry
8 that -- if we get any legal mail that comes through any
9 institution, you have a legal mail service and you have to
10 sign a registry in order to show that you got legal mail --
11 or to get it, that's the only way we can get legal mail
12 period, and so I didn't get no legal mail. I wrote to
13 Ms. Bryant at the legal -- at the mailroom and she stated
14 -- and I've got a copy of the thing there stating that I
15 never got no legal mail in January or February, that month.

16 Q. Okay. I'm gonna show you what's --

17 A. I also had wrote Aimee a letter like twenty -- I think
18 twenty-one days after I went to court that I gave you a
19 copy of asking her if all my issues didn't get put in to
20 file a 59(e) and also if that didn't -- if we couldn't do
21 that, then if everything was there to file an appeal if the
22 case got dismissed.

23 Q. Okay.

24 (Applicant's Exhibit Numbers 1 through 4 were marked
25 for identification.)

1 BY MS. GOOD:

2 Q. Let me show you first what's marked as Applicant's
3 Exhibit 4. Do you recognize this?

4 A. Yes, ma'am.

5 Q. And what is that?

6 A. That's the letter that I sent Aimee to begin with,
7 like I said, a few days after -- twenty-one days after I
8 went to court.

9 Q. And it's dated September 6th of 2012?

10 A. Uh-huh.

11 MS. GOOD: At this time, Your Honor, I'd like to move
12 into evidence Applicant's Number 4.

13 MR. SCHMECKPEPER: No objection.

14 THE COURT: Without objection.

15 (Applicant's Exhibit Number 4, a 9/6/12 letter, was
16 admitted into evidence.)

17 BY MS. GOOD:

18 Q. And in this case you indicate -- can you read this
19 sentence beginning right here?

20 A. I thought you said you would let me know as to the
21 judgment and also file the proper paperwork if the decision
22 was not made in my favor. It has been twenty-one days now
23 and I haven't heard from you.

24 Q. Okay. So you indicated you would like her to appeal?

25 A. Uh-huh.

1 Q. Okay. Next I'm gonna show you what's marked as
2 Applicant's Exhibit Number 1. Do you recognize that?

3 A. Yes, ma'am.

4 Q. What is that?

5 A. That's the letter that I sent Aimee again.

6 Q. Okay. And what date is that?

7 A. That one is 3-5-13.

8 Q. Okay. And that's your handwriting?

9 A. Yes, ma'am.

10 **MS. GOOD:** At this time, Your Honor, I enter
11 Applicant's Number 1.

12 **MR. SCHMECKPEPER:** No objection.

13 **THE COURT:** Without objection.

14 (Applicant's Exhibit Number 1, a 3/5/13 letter, was
15 admitted into evidence.)

16 BY MS. GOOD:

17 Q. And this is the one asking what the result was when
18 you hadn't heard yet?

19 A. That's correct.

20 Q. Okay. Let me show you Applicant's Exhibit Number 2.
21 Do you recognize this?

22 A. Yeah, that's the letter that I got from Aimee.

23 Q. Okay. Indicating that she had sent you previously?

24 A. Right.

25 Q. Okay.

1 **MS. GOOD:** At this time, Your Honor, I enter
2 Applicant's Number 2.

3 **MR. SCHMECKPEPER:** No objection.

4 **THE COURT:** Without objection.

5 (Applicant's Exhibit Number 2, a letter, was admitted
6 into evidence.)

7 BY MS. GOOD:

8 Q. And, finally, I show you Applicant's Number 3. Do you
9 recognize this?

10 A. Yes, that's the staff request I sent to the mailroom
11 where Ms. Jones had stated that I didn't get any legal
12 mail.

13 Q. Okay.

14 **MS. GOOD:** At this time, Your Honor, I enter
15 Applicant's 3.

16 **MR. SCHMECKPEPER:** No objection.

17 **THE COURT:** Without objection.

18 (Applicant's Exhibit Number 3, a letter, was admitted
19 into evidence.)

20 BY MS. GOOD:

21 Q. And just to be clear, this indicates that you asked
22 her if you received any legal mail for, specifically,
23 January or February and she indicates that she had not
24 received any mail for you, according to the logs, from
25 January 2nd through February 2nd of 2013?

1 A. Exactly.

2 Q. Are you asking the Court here today to allow you to
3 appeal your PCR?

4 A. Yes, ma'am.

5 **MS. GOOD:** No further questions, Your Honor.

6 **MR. SCHMECKPEPER:** May it please the Court? Do you
7 have copies of the letters?

8 **MS. GOOD:** (Indicating.)

9 **MR. SCHMECKPEPER:** I beg the Court's indulgence. I
10 apologize, Judge. I'm looking at this first. Your Honor,
11 may I approach the Applicant?

12 **THE COURT:** Yes.

13 CROSS-EXAMINATION

14 BY MR. SCHMECKPEPER:

15 Q. I just have a couple of questions.

16 A. Yes, sir.

17 Q. Did you ask her in this letter to file an appeal for
18 you?

19 A. It doesn't say appeal specifically, but it does say
20 (59)e or proper paperwork, which would be -- would be an
21 appeal.

22 **MR. SCHMECKPEPER:** Your Honor, I have no further
23 questions.

24 **THE COURT:** Any redirect on what he went into?

25 **MS. GOOD:** No, sir.

1 **THE COURT:** Thank you, sir. You may step down. Be
2 careful stepping down.

3 (Witness excused.)

4 **THE COURT:** Does the Applicant have any other
5 witnesses?

6 **MS. GOOD:** No, sir.

7 **MR. SCHMECKPEPER:** Your Honor, the State calls Aimee
8 Zmroczek.

9 **THE COURT:** Ma'am, just come on around and place your
10 left hand on the Bible and raise your right hand and I'll
11 swear you in.

12 AIMEE ZMROCZEK,

13 having been duly sworn, testified as follows:

14 **THE COURT:** Thank you, ma'am. Have a seat in the
15 witness chair. Be careful stepping up to the microphone.

16 DIRECT EXAMINATION

17 BY MR. SCHMECKPEPER:

18 Q. Good morning, Ms. Zmroczek.

19 A. Good morning.

20 Q. How are you doing this morning?

21 A. Good.

22 Q. Do you remember representing Mr. Deaton?

23 A. I do.

24 Q. Do you remember the -- do you remember the PCR
25 hearing?

1 A. I do. I do specifically. In fact, he was initially
2 appointed an attorney named Bill Davis and Mr. Davis closed
3 his law practice and I -- then I was appointed to take over
4 all of his cases, so.

5 Q. You've had a lot of PCR's; is that correct?

6 A. I have.

7 Q. Now how do you get most of your clients?

8 A. I am on the contract list and so I get appointed
9 clients in what I -- the reason I specifically remember
10 Mr. Deaton is because I've only -- he is my first ever
11 ODC complaint. I've never had any complaints before with
12 ODC and he was my first, so I specifically remember his
13 case because when you get that letter for the first time
14 you freak out and he had, I believe, complained about
15 this same issue and that was subsequently dismissed. My
16 problem, and I've tried to tell him this, is that since
17 I'm on the appointment list for PCR's if I am found
18 ineffective, I get taken off that list. Had he asked me
19 to file an appeal, I certainly never -- I haven't even
20 seen that letter that was dated -- or that talked about
21 the 59(e), but had I received that I certainly would have
22 filed.

23 Q. Because you handle a lot of PCR's, correct?

24 A. Yes.

25 Q. And how many ask to do an appeal?

1 A. Frequently. Well, actually probably about
2 fifty percent ask to do an appeal.

3 Q. And how much work is it for you to file an appeal?

4 A. In fact, once the order's come in and the person has
5 asked to file an appeal, my paralegal -- we have a system
6 where she automatically generates it, so it's literally
7 just a form that I have to sign.

8 Q. You don't even ask -- you don't even consider whether
9 there are any issues for appeal. If they ask for one --

10 A. We automatically.

11 Q. -- you automatically send them out. And you were
12 talking about this letter. Did you receive this letter?

13 A. I never -- I still haven't seen it. I've never
14 received a letter that would ask that because I would have
15 certainly filed a 59(e). And he said it was dated in
16 September, but I do recall just because I had to answer
17 that ODC complaint that a decision wasn't made in his case
18 until January. But had I had that letter in my file, I
19 would have certainly filed a 59(e) when we got the order
20 dismissing.

21 Q. And did you give Mr. Deaton your forwarding
22 information?

23 A. Of course.

24 Q. And did you end up changing offices at any time during
25 representation?

1 A. Not -- no, we changed offices after -- after -- well,
2 honestly I can't remember, but I know that he said he
3 received a postcard in April and so I believe at that
4 point his -- that's when we moved, so.

5 Q. So there's no reason you wouldn't have gotten this
6 letter?

7 A. Correct. And we had the post -- the post office
8 forwarded everything, but we didn't move until April. In
9 fact, we sent the cards out before we moved so that people
10 would have our address.

11 Q. Okay. And just out of curiosity, I mean, from your
12 recollection of this case, was there any reason to appeal
13 or were there any appealable issues?

14 A. There were not. Although, he -- it was a guilty plea
15 and I believe that we discussed that unfortunately he
16 didn't have what I thought were any cognizable PCR claims,
17 he still wanted to go forward. And, in fact, in April --
18 I just had my paralegal look it up, April 19th, 2012, is
19 when I got the -- the ODC complaint and that was the first
20 time I'd heard from Mr. Deaton since our representation.

21 Q. Did he mention at the hearing that he wanted an
22 appeal?

23 A. He did not.

24 Q. And I hate to beat a dead horse, if he asked you for
25 an appeal at any point, what would you have done?

1 A. Absolutely I would have automatically filed a (59)e.
2 Like I said, it's no extra work on my part. My paralegal
3 generates it and she's been my paralegal the entire time
4 my firm's been open.

5 Q. Have you ever missed an appeal?

6 A. No.

7 **MR. SCHMECKPEPER:** I have no further questions, Your
8 Honor.

9 CROSS-EXAMINATION

10 BY MS. GOOD:

11 Q. Do you recall at the PCR at issue here if you spoke
12 with Mr. Deaton afterwards?

13 A. I don't recall. Typically, I don't have more -- I
14 have more than one, so typically SCDC shuffles them back
15 because they don't come from Lexington, so I know that
16 SCDC has to send personnel, so typically they will take
17 them away.

18 Q. Do you ever ask them right afterwards do you want me
19 to appeal if it doesn't go our way?

20 A. Now. Now I do just because I've never run into this
21 issue before.

22 Q. Do you recall if you made any notes on any of your
23 PCR evidentiary hearing notes about an appeal?

24 A. I went through -- actually the file is now stored
25 electronically and so I didn't print it out, but I went

1 through everything in preparation for today and tried
2 because I would -- had I written that down I certainly
3 would have agreed that I was ineffective, but in this case
4 I know that it wasn't an issue.

5 Q. You said the ODC complaint was the first time that
6 you had heard from Mr. Deaton in April since the end of
7 your representation in January?

8 A. Correct.

9 Q. Okay. I'm gonna show you what's marked Applicant's
10 Exhibit 1. Do you recognize this?

11 A. I don't recognize it offhand, but, I mean, it
12 certainly looks like a letter that I received --

13 Q. Okay. So you --

14 A. -- or that he sent me.

15 Q. Okay. And then I want to you show you what's marked
16 as Applicant's Exhibit 2. Do you recognize that?

17 A. Yeah, and I believe that these were -- actually
18 these were -- when I received my ODC complaint, I filed
19 a fourteen page response with I think -- I believe
20 sixty-two pages of all of our correspondence and so I
21 believe that these were included in what I sent to ODC.

22 Q. Okay. So you did hear from him prior?

23 A. In March, right.

24 Q. And you've indicated that you sent a letter in
25 January to him regarding the appeal or the dismissal?

1 A. I did, and I didn't bring a copy of it because I
2 turned it in to ODC and they hadn't pulled the file to
3 give that to me.

4 Q. Is it possible that he just didn't get it at the jail
5 or the prison?

6 A. Probably just as likely. I don't know if he's a poor
7 victim of the mail circumstances, just as I don't recall
8 ever receiving a letter in September. I have no idea
9 whether or not it's -- I know I have that problem with
10 SCDC occasionally.

11 Q. Okay. With your own clients?

12 A. Oh, yeah.

13 **MS. GOOD:** No further questions, Your Honor.

14 **THE COURT:** Any redirect on what she went into?

15 **MR. SCHMECKPEPER:** I have no further questions.

16 **THE COURT:** Thank you, ma'am. You can step down.

17 **THE WITNESS:** Thank you.

18 (Witness excused.)

19 **THE COURT:** Does the State have any further witnesses?

20 **MR. SCHMECKPEPER:** Your Honor, the State has no
21 further witnesses.

22 **THE COURT:** Anything in reply?

23 **MS. GOOD:** No, sir.

24 **THE COURT:** All right. I'll take a look at it and let
25 you know.

1 **MS. GOOD:** All right. Thank you, Your Honor.

2 **MR. SCHMECKPEPER:** Thank you, Judge.

3 (Whereupon, the proceedings were concluded at
4 11:22 AM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter
for the Eleventh Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and complete transcript of record of all the
proceedings had and the evidence introduced in the hearing
of the captioned case in Circuit Court on the 14th day of
January, 2016.

This transcript may contain quoted material. Such
material is reproduced as read by the speaker.

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

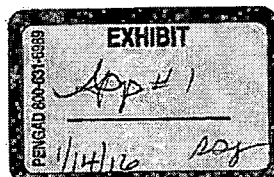
May 17, 2016

s/ Stacy S. Johnson
Stacy S. Johnson, RPR
Circuit Court Reporter

Hi AIMEE,

How are you, I hope well. I Just got the post card that your firm
 has acquired a new member or Associate, glad that things are looking up
 for you. Its been seven months now since we went to P.C.R. Court,
 have you heard anything as of yet? Also, since we saw each other I've
 had some major Health issues that have happened, I've lost my hearing
 in my right ear due to negligence and two months ago had something
 happen when I passed out coming out of the shower. Still have not
 seen a Doctor to this day. I had lost all movement on my left side
 and was in a really bad condition, I was given one Blood pressure pill
 blood Pressure at the time was 220/120 and Five tylenol and sent back to the
 room in an upstairs room, have been moved after two weeks of having
 to get someone to help me up and down stairs. Lost most of the vision in my
 left eye (got some back) and still have many physical symptoms that have
 lingered since. I don't know if it was a stroke or Heart problem still numb
 on my left side, and Headaches really Bad, Heart, Left arm, and neck on left
 side stay in pain, at night its a bit worse. I've pleaded with Staff here
 and my sister has called, but I still have not received any help. Can
 you help me, or do you know someone who would be interested in
 pursuing this. I really need a lawyer! Thanks for your time, you
 are in my prayers.

Sincerely,
William Deaton
 William Deaton 3/10/30



A. J. Z. Law Firm, LLC

Mailing Address
P.O. Box 11961
Columbia, SC 29211

Physical Address
1330 Lady Street, Suite 400
Columbia, South Carolina 29201

Phone: (803) 400-1918
Fax: (803) 403-8005

Aimee J. Zmroczek, Attorney
ajzlawfirm@gmail.com

Christina Metze, paralegal
christina.ajzlawfirm@gmail.com

M. Wade Downtin, Attorney
wade.ajzlawfirm@gmail.com

March 27, 2013

William Deaton, #00340130
LEGAL MAIL
Lieber Correctional Institution
PO Box 205
Ridgeville, SC 29472

RE: Deaton v. State

Dear Mr. Deaton:

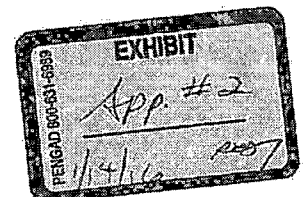
I am in receipt of your letter dated March 5, 2013. I am confused because we sent you a copy of the order of dismissal on January 15, 2013. I am enclosing another copy of that letter and dismissal. The time to appeal has passed and there is nothing that can be done for your case at this time. I am sorry to hear about your health issues, but you have to address those with the department of corrections. I would suggest you document everything in writing to the department of corrections with regards to your health and continue to seek and request proper medical treatment.

I have closed your file in my office and wish you the best of luck.

Best regards.


Aimee J. Zmroczek

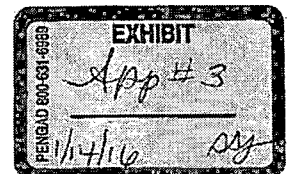
With enclosures



**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

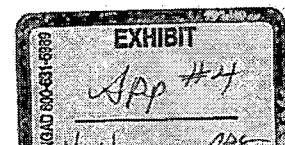
Date 4-2-13	TO: (Name and Title of Staff Member) ~~Mat Room~~ Ms Jones
SCDC # 340130	NAME William P. Deaton
WORK ASSIGNMENT PI-1	LIVING QUARTERS SA-9
REQUEST (State completely, giving full details. Use back of page if necessary) Hi, I recieved legal mail from my lawyer this evening. (A.J. Z Law Firm) She's saying I recieved legal mail from her in January (15th-18th), it was a very important letter that was for me to decide about putting in for a appeal, which I had 30 days to file. I never recieved any legal mail from Her concerning any of this. Can I have a copy of incoming legal mail I've recieved to show the courts, to prove I never recieved any mail from the A.J. Z Law Firm. Sincerely William Deaton	
DISPOSITION BY STAFF MEMBER Checked logs from Jan 2, 2013 thru Feb 2, 2013. Cannot find anything. Cannot give you copies of legal log even if we did find something. Must be requested to HQS by a higher subperend by the courts.	
DATE 4/2/2013	SIGNATURE S Jones

SCDC 29-31 REVISED 4/09



9-6-12

I got the copies of the evidence, I presented and a copy of the brief(s) I tried to present to the Judge in the court on August 15th 2012. At least it will go on record and as the Judge said, "He would consider everything." I just wish I had the opportunity to have presented to the court orally so it (the brief) with the evidence, no order so He could have clearly understood ALL of it: I thought that was what the Hearing was for to determine from the evidence and record the Orders, Errors, and Constitutional rights as to what your case contained, so He could make a clear determination as to what to do? "A Fair Bite at the Apple" as they all it, I believe was cut short in many ways. I thought you said you would let me know as to the judgement, and also file the proper paper work, if the decision was not in my favor. Its been 21 days now and I haven't heard from you as to any of this? I know there's only an allotted amount of time concerning all of this and hope to know what's opened soon.



ORIGINAL

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
William Patrick Deaton,)
S.C.D.C. No. 340130,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
2013-CP-32-2614

ORDER OF DISMISSAL

BETH A. CARRIG
CLERK OF COURT
LEXINGTON, SC

FILED
SEP - 2 A 11:12

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on August 2, 2013. Respondent filed its Return on May 22, 2014. An evidentiary hearing into the matter was convened on January 14, 2016, at the Lexington County Courthouse. Applicant was present at the hearing and was represented by Anna R. Good, Esquire. Also present was Applicant's previous PCR counsel, Aimee Zmroczek, Esquire, who also testified. Respondent was represented by Patrick Schmeckpeper, Esquire, of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Lexington County. Applicant was indicted at the October 2009 term of the Lexington County Grand Jury for First Degree Burglary (2009-GS-32-2764) and Armed Robbery with a Deadly Weapon (2009-GS-32-2769). Applicant was represented on the charges by Sarah A. Hahn, Esquire. Applicant pleaded guilty on January 27, 2010 to all charges as indicted. The Honorable Thomas A. Russo sentenced Applicant to

sixteen (16) years for Armed Robbery and to a concurrent term of fifteen (15) years confinement for Burglary. Applicant did not appeal his conviction or sentence.

2010-CP-32-5311

Applicant subsequently filed an application for post-conviction relief on December 14, 2010, where he alleged he was being held unlawfully for the following reasons:

1. Ineffective assistance of counsel, in that
 - a. Mitigating facts never presented to court prior to sentencing.
 - b. Counsel failure to enforce a guilty plea agreement.

Respondent filed its return on February 28, 2011. Applicant was represented in his PCR action by Aimee J. Zmroczek, Esquire. An evidentiary hearing was convened on August 5, 2012, before the Honorable W. Jeffrey Young. The State was represented by Assistant Attorney General Kaelon E. May. Applicant was present at the hearing and testified on his own behalf. Also testifying was Applicant's plea counsel, Sarah A. Hahn, Esquire. In an Order of Dismissal filed January 14, 2013, Judge Young found that counsel was not ineffective and dismissed the case with prejudice.

Applicant filed a *pro se* Notice of Appeal on April 12, 2013. The Notice of Appeal was dismissed on March 29, 2013, because it was not served within thirty (30) days. Applicant then filed a *pro se* request for the court to reconsider the order of dismissal. The Supreme Court of South Carolina issued an Order dated July 11, 2013, denying that motion without prejudice to allow Applicant to seek relief pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991).

Allegations

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



1. Ineffective assistance of PCR counsel:
 - a. "PCR counsel failed to serve and file Notice of Appeal."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony and evidence presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court reviewed the Clerk of Court records regarding the prior PCR proceedings, the subject guilty pleas, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, the transcripts and documents from the prior proceedings, and the legal arguments of counsel. Pursuant to S.C. Code Ann. §17-27-80 (2016), this Court makes the following findings of fact and conclusions of law based upon all of the probative evidence presented.

Austin Claim

Applicant alleges that his PCR counsel was ineffective for failing to file an appeal off of the denial of his application for post-conviction relief. This Court finds Applicant's claim is barred by the equitable doctrine of laches. Further, after hearing all the evidence presented at the evidentiary hearing, this Court finds Applicant has failed to meet his burden.

Applicable Law

There is a statutory right to seek appellate review of the denial of post-conviction relief. S.C. Code Ann. § 17-27-100 (2016). Under Austin, a defendant can appeal a denial of a PCR application after the statute of limitations has expired if the defendant either requested and was denied an opportunity to seek appellate review, or did not knowingly and intelligently waive the right to appeal. Odom v. State, 337 S.C. 256, 259-60, 523 S.E.2d 753, 754-55 (1999).

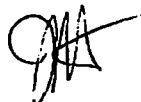


Testimony

Applicant testified that he had a conversation with counsel immediately after the PCR hearing as to whether he wanted to appeal. PCR Tr. p. 6. Applicant said counsel told him she would immediately put in for appeal. Id. Applicant said that he wrote a letter to counsel dated September 6, 2012, requesting that counsel file a proposed order granting relief or a Rule 59(e) motion. (Applicant's Exhibit 4). He said that he then wrote a letter dated March 5, 2013, requesting the status of his PCR proceedings. (Applicant's Exhibit 1). Applicant presented evidence that he then received a letter from counsel, dated March 27, 2013, explaining that she had sent him a copy of the order of dismissal on January 15, 2013. (Applicant's Exhibit 2). Applicant then presented what purports to be a request for the mail log, as well as a response from "Mrs. Jones" indicating he had no legal mail from January 2 through February 2, 2013. (Applicant's Exhibit 3).

Counsel testified that she specifically remembered Applicant because he was her first Office of Disciplinary Counsel complaint. PCR Tr. p. 13. Counsel testified Applicant submitted a complaint on this same issue, which was subsequently dismissed. Id. Counsel testified that Applicant did not ask her for an appeal immediately after the hearing. Tr. p. 15.

Counsel testified that had Applicant asked her to file an appeal for him, she would have filed an appeal. Id. Counsel explained that she is on the appointment list for post-conviction relief, and if she were to be found ineffective, then she gets taken off of that list. Id. Counsel testified that she had never seen the letter requesting that she file a 59(e), but that she would have filed one had Applicant asked her to. Id.



Counsel testified that she handles a large number of PCR applicants, and of those roughly fifty percent ask to do an appeal. PCR Tr. p. 13-14. Counsel said that once an order comes in, she has a system in place where her paralegal automatically generates a notice of appeal, so that "it's literally just a form that [she has] to sign." PCR Tr. p. 14.

Discussion

After hearing the testimony of both witnesses, this Court simply finds counsel more credible than Applicant. Counsel's credible testimony directly refutes Applicant's assertion that he asked her to file an appeal immediately following the evidentiary hearing. Applicant's contrary testimony is not credible. This Court finds the exhibits submitted by the Applicant equally unpersuasive. The uncorroborated and, frankly, unauthenticated note from "Mrs. Jones" (Applicant's Exhibit 3) – while in evidence – does not assist the Applicant in meeting his burden. In addition to unanswered questions this Court has about its authenticity, Applicant has failed to provide any context necessary for a determination that a letter from PCR counsel was never delivered. In light of Applicant's unbelievable testimony and unpersuasive exhibits, this Court finds he has failed to meet his burden. The allegation is therefore denied and dismissed.



ALL OTHER ALLEGATIONS

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

[Signature follows]

A handwritten signature in black ink, appearing to be 'JMS' with a flourish.

CONCLUSION

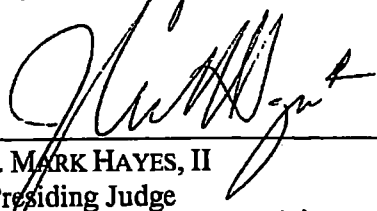
Based on the foregoing, this Court finds that the Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of intent to appeal within thirty (30) days from receipt of this Order to secure the appropriate appellate review. See Rule 203, SCACR. Rule 71.1(g), SCRCP; Bray v. State, 336 S.C. 137, 620 S.E.2d 743 (2005), for the obligation of Applicant's counsel to file and serve notice of appeal. The Applicant's attention is also directed to South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED

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

AND IT IS SO ORDERED this 29th day of August, 2016.


 J. MARK HAYES, II
 Presiding Judge
 Eleventh Judicial Circuit

Lexington, South Carolina

FILED
 2016 SEP - 2 A 11:13
 KATH A. CARRIGG
 CLERK OF COURT
 LEXINGTON, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
BURGLARY FIRST DEGREE

§ 16-11-0311

At a Court of General Sessions, convened on OCTOBER 2009, the Grand Jurors of Lexington County present upon their oath:

That **William Patrick Reese Deaton** did in Lexington County, South Carolina on or about July 19, 2009 did knowingly and willfully enter a dwelling, to wit: 2109 Heartsease Road, Swansea, SC being the dwelling of William Capps, without consent and with the intent to commit a crime therein and while within the dwelling became armed with a firearm, in violation of § 16-11-311 of the Code of Laws of South Carolina, 1976, as amended.

A TRUE COPY
[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

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

[Signature]

ASSISTANT SOLICITOR

WITNESSES

Swansea Police Department

W. Bennett

Law Enforcement Case #:

JAG

ARREST WARRANT NUMBER

I320437

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 10-12-09

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009GS3202764

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

OCTOBER TERM 2009

THE STATE

vs.

William Patrick Reese Deaton

CDR #: 0079

Indictment for

BURGLARY FIRST DEGREE

§ 16-11-0311

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	ARMED ROBBERY WITH A DEADLY WEAPON
COUNTY OF LEXINGTON	)	
	)	§ 16-11-0330(A)

At a Court of General Sessions, convened on OCTOBER 2009, the Grand Jurors of Lexington County present upon their oath:

That **William Patrick Deaton** did in Lexington County, South Carolina on or about August 2, 2009 knowingly and willfully while armed with a deadly weapon to wit: a knife, did feloniously take from the person or presence of a clerk with Circle K Convenience Store, by means of force, threats or intimidation goods or monies being described as follows: U. S. currency with intent to deprive the owner of the use of such property, in violation of Section 16-11-330 (A) of the South Carolina Code of Laws, 1976, as amended

A TRUE COPY

[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

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

[Signature]
ASSISTANT SOLICITOR

WITNESSES

Pine Ridge Police Department

Elizabeth Wright

Law Enforcement Case #:

JAG

ARREST WARRANT NUMBER

1620143

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 10-12-09

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2009GS3202769

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

OCTOBER TERM 2009

THE STATE

vs.

William Patrick Deaton

CDR #: 0139

Indictment for

**ARMED ROBBERY WITH A DEADLY
WEAPON**

§ 16-11-0330(A)

DONALD V. MYERS, SOLICITOR

200

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington
STATE

VS.

William Patrick Reese DeatonINDICTMENT/CASE#: 2009GS3202764AW#: I320437Date of Offense: 7/19/2009S.C. Code §: 16-11-0311CDR Code #: 0079AKA:
Race: W Sex: M Age: 41
DOB: 01-23-1969 SS#: 251-02-0212
Address: 118 Sheraton Ln
City, State, Zip: West Columbia, SC 29172-2670
DL# 008596352* SID#*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or ☒ PLEADSTO: Burglary / Burglary (After June 20, 1985) - First degreeIn violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079☐ 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.The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

(defendant's initials)

ATTEST:

Solicitor

SC Bar #

Defendant

Attorney for Defendant

73691
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/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 formonths/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §43-25-135.Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-23-20 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP

Total: \$ 4000 plus 20% fee: \$ days/hours Public Service EmploymentPayment Terms: ☒ Set by SCDPPPS Recipient: TINA CAPP

*Fine:

\$14-1-206 (Assessments 107.5%)	\$	<u> </u>
\$14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>10.00</u>
\$14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ <u> </u>
\$56-5-2995 (DUI Assessment)	\$12	\$ <u> </u>
\$56-1-286 (DUI Breath Test)	\$25	\$ <u> </u>
\$47.12 (Public Def/Prob)	\$500	\$ <u> </u>
\$14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
\$14-1-213 (Drug Court Surcharge)	\$100	\$ <u> </u>
\$50-21-114 (BUI Breath Test Fee)	\$50	\$ <u> </u>
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ <u> </u>
\$90.7 (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u> </u>
TOTAL	\$	\$ <u> </u>

Clerk of Court/Deputy Clerk
Court Reporter: Beth A. (Cunningham)Presiding Judge
Judge Code: 2145
Sentence Date 29 JAN 10

SCCA/217 (11/2009)

1-29-10 Under Admonition ...

SENTENCE SHEET

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & F.C.

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATEVS.
William Patrick DeatonAKA:
Race: W Sex: M Age: 41
DOB: 01-23-1969 SS#: 251-21-0212
Address: 6869 Greenwood Dr
City, State, Zip: West Columbia, SC 29170
DL# 008596352* SID#*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponIn violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ 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. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

William Patrick Deaton Defendant 73681 SC Bar #
William Patrick Deaton Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 16 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-115.Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP Total: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient: *Fine:
§14-1-206 (Assessments 107.5%) \$
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$
§56-5-2995 (DUI Assessment) \$12 \$
§56-1-286 (DUI Breath Test) \$25 \$
§47.12 (Public Def/Prob) \$500 \$
§14-1-212 (Law Enforce. Funding) \$25 \$ 25
§14-1-213 (Drug Court Surcharge) \$100 \$
§50-21-114 (BUI Breath Test Fee) \$50 \$
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$
§90.7 (SCCJA Surcharge) \$5 \$ 5
3% to County (if paid in installments) \$
TOTAL \$ 130Clerk of Court/Deputy Clerk
Court Reporter:

SCCA/217 (11/2009)

INDICTMENT/CASE#: 2009GS3202769AW#: 1620143Date of Offense: 8/2/2009S.C. Code §: 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

A TRUE COPY

Lex. Co. C.C.C.P., G.S. & F.D.

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. Or Job Corp. May serve W/E beginning
Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ Beginning
\$ Paid to Public Defender FundOther: NO CONTACT WITH VICTIMS
RECOMMEND ATR☐ Appointed PD or appointed other counsel,
§47.12 requires \$500 be paid to Clerk
during probation.Presiding Judge
Judge Code: 2145
Sentence Date 27 JAN 10