

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable G. Thomas Cooper, Jr., Circuit Court Judge

SHONATHAN M. JETER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-000265

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

)
) IN THE COURT OF GENERAL SESSIONS

The State,
-vs-
Shonathan M. Jeter,
Defendant.

)
) TRANSCRIPT OF RECORD
) 2016-GS-42-1670;1671;1672;3788
)
) August 25, 2016
) Spartanburg, South Carolina

B E F O R E:

HONORABLE DANIEL DEWITT HALL, JUDGE

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

JAMES ZACHARY FARR, ESQUIRE
Attorney for the State

CANDICE KOOPMAN LAPHAM, ESQUIRE
Attorney for the Defendant

Linda D. Moffitt
Circuit Court Reporter

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Guilty plea -- page 3.
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1 THE COURT: Let me -- let's see. Go ahead and call
2 his case, but when I get to the plea colloquy, let me give
3 it to everybody here in the jury box.

4 MR. FARR: Yes, sir, Your Honor. May it please the
5 Court.

6 We're here on four matters for Shonathan Jeter. He is
7 represented by Candice Lapham of the private bar.

8 The first indictment is 2016-GS-42-1672 for possession
9 with intent to distribute cocaine base second offense with
10 no recommendation; 2016-GS-42-3788, trafficking in crack
11 cocaine ten grams but less than 28 second offense, which is
12 five to 30; 2016-GS-42-1670, distribution of cocaine base
13 second offense, no recommendation; 2016-GS-42-1671,
14 distribution of cocaine base second offense, no
15 recommendation, Your Honor.

16 On the trafficking he is waiving presentment to the
17 grand jury. Part of this plea, we're dismissing two gun
18 charges and three other charges as part of this plea, Your
19 Honor. And he's forfeited over the gun.

20 THE COURT: Thank you.

21 (Whereupon, the defendant was duly sworn.)

22 THE COURT: All right. Ms. Lapham, you represent
23 Mr. Jeter on these charges.

24 MS. LAPHAM: Yes, I do, Your Honor.

25 THE COURT: How does he indicate he wishes to plead?

1 MS. LAPHAM: He wishes to plead guilty, Your Honor.

2 THE COURT: Mr. Jeter, how do you pronounce your first
3 name?

4 THE DEFENDANT: Shonathan.

5 THE COURT: Shonathan. Mr. Jeter, how old are you?

6 THE DEFENDANT: Thirty.

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

8 THE DEFENDANT: I graduated. Some college.

9 THE COURT: Are you married?

10 THE DEFENDANT: No, sir.

11 THE COURT: Do you have any children?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: How many?

14 THE DEFENDANT: Three.

15 THE COURT: How long has he been in jail?

16 MR. FARR: 215 days, Your Honor. That's on all
17 charges.

18 THE COURT: Mr. Jeter, I have four indictments before
19 me, and let me go through each one of those with you.

20 Indictment 2016-1672 is an indictment for possession
21 with intent to distribute cocaine second offense.

22 That indictment alleges that on or about November the
23 24th of last year you did possess a quantity of cocaine
24 under circumstances, which you're charged with possession
25 with intent. It's your second offense. You could get up

1 to 30 years in prison for that. Do you understand that?

2 THE DEFENDANT: Yes, sir.

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

4 THE DEFENDANT: Plead guilty.

5 THE COURT: Indictment 2016-3788 is an indictment for
6 trafficking in cocaine.

7 That indictment alleges that here in Spartanburg
8 County on or about March the 9th of this year that you were
9 in possession of more than ten grams of cocaine but less
10 than 28 grams, second offense. That carries up to 30 years
11 in prison.

12 It is a violent, serious offense. The significance of
13 that is, is that we have what's called the three-strikes
14 rule here in South Carolina. And if you get three or more
15 strikes the state could seek a life-without-parole sentence
16 on you, or if you were convicted of one of those in the
17 future. We hope that doesn't happen, and don't know what's
18 on your record, but at least today this is one of those
19 strikes. Do you understand that?

20 THE DEFENDANT: Yes, sir.

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

22 THE DEFENDANT: I plead guilty.

23 THE COURT: That indictment has not been to the grand
24 jury. The significance of that is the state can't call
25 your case for trial unless a grand jury listens to some of

1 the evidence and determines whether there's probable cause
2 to go forward with the case. That's a right that you have.

3 It appears by your initials on the sentencing sheet
4 that you're waiving and giving up that right. Is that
5 correct?

6 THE DEFENDANT: Correct.

7 THE COURT: Indictment 2016-1670, an indictment
8 alleges that here in Spartanburg County on or about
9 November the 2nd of 2015 you did distribute a quantity of
10 cocaine. You could get up to 30 years in prison. That is
11 also a serious offense. How do you plead to that charge?

12 THE DEFENDANT: Guilty.

13 THE COURT: And then, lastly, 2016-1671 is an
14 indictment for -- that alleges that on or about October the
15 26th of 2015 you did distribute another quantity of
16 cocaine. That's a serious offense and carries up to 30
17 years. How do you plead to that charge?

18 THE DEFENDANT: Guilty.

19 THE COURT: So you need to -- I need to be able to
20 hear you.

21 THE DEFENDANT: Guilty.

22 THE COURT: Mr. Jeter, you, in fact, have three
23 strikes today based on this plea today.

24 Solicitor, I believe these all three are separate and
25 distinct offenses, is that correct?

1 MR. FARR: Yes. It should be four strikes. The PWID
2 is also a strike, Your Honor, because it's a second
3 offense. It's a serious.

4 THE COURT: Okay. I'm sorry. Yes. It is also a
5 strike.

6 MR. FARR: They are all separate and distinct, Your
7 Honor.

8 THE COURT: All right. So we have four separate and
9 distinct offenses which means that as of today, just from
10 today, you have four strikes on your record. If you get
11 one in the future, convicted of any type of serious
12 offense, the state could seek a life-without-parole
13 sentence on you at that time. Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you still want to go forward with this
16 plea today?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: I'm going to ask those of you who are
19 seated in the jury box to listen very carefully as I go
20 over Mr. Jeter's rights in a jury trial and his right to
21 appeal.

22 If you have any questions, when you come before the
23 Court to enter your plea sometime today ask me about those.
24 I will simply ask you when we get to this part of your case
25 do you understand your right to a jury trial and if you're

1 giving that up. So listen very carefully as I go through
2 this part of this colloquy with Mr. Jeter.

3 Mr. Jeter, do you understand by pleading guilty to
4 these four charges that you give up your right to a jury
5 trial? Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Has Ms. Lapham gone over your rights in
8 the jury trial and what that would entail?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Well, let me talk to you about that a
11 little bit.

12 Do you understand you never have to prove your
13 innocence in any criminal case? You can maintain your
14 innocence or you could simply ask for a jury trial. And
15 the state would have to bring evidence and testimony and
16 witnesses into the courtroom, and they'd have to prove to
17 12 jurors your guilt beyond a reasonable doubt on every
18 charge before you could be convicted.

19 That's what's called a jury trial. In a jury trial
20 you wouldn't have to testify. You would have a right to
21 remain silent.

22 If you exercise that right the Court would instruct
23 the jury that they're not even to consider that in
24 determining whether you're guilty or not guilty because the
25 state has the burden of proving your guilt beyond a

1 reasonable doubt when they bring charges against you. In
2 fact, 12 jurors would have to all unanimously agree. That
3 means all 12 of them would have to agree that you were
4 guilty before you could be found guilty.

5 At trial you would have a right to hear those
6 witnesses, see those witnesses, listen to them while you're
7 in the courtroom. And your lawyer can cross-examine them
8 on your behalf. That's called the right to confrontation.
9 Do you understand your rights in a jury trial?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Understanding those rights, do you want me
12 to set your case for trial or do you want to go forward
13 with your plea?

14 THE DEFENDANT: I want to go forward with it.

15 THE COURT: Have you had plenty of time to sit down
16 with Ms. Lapham and go over what we call the discovery in
17 this case? Have y'all been over documents that she's been
18 provided by the solicitor's office? That may include
19 incident reports, statements, case summaries, lab reports.
20 Have you been able to do all, look over all, of those items
21 with Ms. Lapham?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you need any more time with her?

24 THE DEFENDANT: No, sir.

25 THE COURT: Have you ever been treated for any mental

1 or emotional disability?

2 THE DEFENDANT: No, sir.

3 THE COURT: Do you understand what we're doing here
4 today?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you pleading to these four charges of
7 your own free will and accord?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Are you, in fact, guilty of all four of
10 these charges?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: I find the decision of this defendant to
13 plead guilty to his charges to be freely, voluntarily and
14 intelligently made with the advice of a competent attorney
15 with whom he says he's satisfied.

16 You have ten days from today in which to appeal. That
17 means if I make an error, if you disagree with the
18 sentence, you have a right to file an appeal. But that has
19 to be filed within ten days from today. And you do that by
20 notifying your lawyer. Do you understand that right?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. Solicitor, tell me about it.

23 MR. FARR: Your Honor, may it please the Court.

24 On 10/26 -- this is the distribution case, Your Honor.
25 On 10/26/2015 Investigators Swad and Horton with the

1 Spartanburg County Sheriff's Office utilized a C.I. to make
2 a controlled buy from the defendant at a trailer off Jersey
3 Road here in Spartanburg County.

4 The C.I. was searched prior and given U.S. currency
5 and audio-visual device. The C.I. responded to the
6 location, and they contacted the defendant. The C.I.
7 exchanged the U.S. currency with the defendant for the
8 crack. Your Honor, that was the first distribution.

9 The second distribution happened on 11/2/2015.
10 Investigators Cooper and Horton with the Spartanburg County
11 Sheriff's Office utilized a C.I. to make a controlled buy
12 from the defendant at a trailer off Jersey Road here in
13 Spartanburg County.

14 The C.I. was searched prior and given U.S. currency
15 and audio-visual device. The C.I. responded to the
16 location and made contact with the defendant. The C.I.
17 exchanged the U.S. currency with the defendant for the
18 crack in that second distribution case, Your Honor.

19 And these two distribution cases led to a search
20 warrant on 11/24/2015. The Spartanburg County Sheriff's
21 Office Narcotics Division conducted a search warrant at
22 Saddle Ridge Drive here in Inman, which is Spartanburg
23 County.

24 Your Honor, when they got there they went to the --
25 there were four other codefendants in that. You've already

1 sentenced all of them. He's the last one in this case.

2 In the room that he was staying in, Your Honor, they
3 found 6.5 grams of crack. That's why it's possession with
4 intent to distribute, for the level and how much it was.
5 That's the possession with intent to distribute case, Your
6 Honor.

7 Then on the trafficking case, this happened on
8 3/9/2016. Officer with the Spartanburg County Sheriff's
9 Office responded to the intersection of Jersey Road and
10 Saddle Ridge Road in reference to a suspicious gray Toyota
11 Corolla setting in the middle of the road.

12 Officers arrived and observed the vehicle in front of
13 Saddle Ridge. Officer noticed two subjects in the car.
14 The passenger looked at the officer and then got out of the
15 vehicle and tried to walk away, but the officer told him to
16 stop. He did stop.

17 He asked the -- his cousin, who is also a codefendant,
18 Ms. Jackson, for consent to search the vehicle. The
19 officer found a little over 11 grams of cocaine in the car,
20 Your Honor, and a weapon. He has forfeited over the
21 weapon. It has been tested. We just haven't gotten the
22 results back. I just wanted to put that on the record that
23 it was a little under 11 grams, Your Honor. So that's why
24 it's a trafficking, because it has to be over ten.

25 THE COURT: All right. Thank you.

1 MR. FARR: Yes, sir.

2 THE COURT: Any prior record?

3 MR. FARR: Your Honor, his prior record is 2013 for
4 possession of crack. He got a time-served sentence. And
5 then he has a federal charge, Your Honor, for conspiracy to
6 sell cocaine. He did 63 months on that.

7 THE COURT: When?

8 MR. FARR: In 2007.

9 THE COURT: Sixty-three months?

10 MR. FARR: Yes, sir.

11 THE COURT: All right. Ms. Lapham, I'll be glad to
12 hear from you and then your client.

13 MS. LAPHAM: Thank you, Your Honor.

14 Mr. Jeter here today was mostly raised by his mother.
15 His father was an addict his entire life, and to this day
16 he still is. Unfortunately, a lot of the people that he
17 grew up with -- family members -- were in the drug game,
18 Your Honor.

19 It's a very sad story, but that's what happened to
20 him. And when you hear the record, especially with regard
21 to the federal charges, he was one of 38 codefendants in
22 that federal case. And his direct contribution towards the
23 conspiracy was a half a gram. It was a crack rock, Your
24 Honor.

25 I'm not trying to make an excuse for it, Your Honor,

1 but when we hear the numbers of how long he did, it was 38
2 codefendants that he had in that case, Your Honor. That
3 was his first charge.

4 Unfortunately, it happened when he was with a cousin.
5 And when he was released he had a drug problem. There was
6 no treatment, no nothing.

7 He, basically, came back out here and tried to get a
8 job. He went to I.T.T. Tech. Would start with various
9 temp agencies, Your Honor. And he'd work somewhere for 90
10 days, they'd lay him off, 90 more days and lay him off once
11 the record came back. And the last job he had was actually
12 B.M.W. He was excited.

13 He's got three children that he supports. One was
14 just born four months ago, Your Honor. And he also has a
15 12-year-old son and a 9-year-old daughter.

16 And when he lost the job at B.M.W., I think
17 self-esteem-wise and psychologically he couldn't handle it
18 because he couldn't provide for his children. And this is
19 not the way to provide, because he knows what he's looking
20 at, if not now, or in the future if something else was to
21 occur, the rest of his life behind bars. And that right
22 now he knows he needs to be a father and not being out
23 there in cars, unfortunately, peddling rocks for \$20 and
24 \$40 to where we're standing here today looking at something
25 that could expose him to significant time.

1 The trafficking charges is, my understanding, barely
2 over the ten grams. He was there with his cousin. It was
3 her vehicle. They were her drugs. He knew about them. He
4 knew what was going to be sold. Yes. He would have
5 profited from it.

6 But right now she is extremely ill. She's got
7 diabetes. She's almost passed away a few times during this
8 time period. So he is here claiming those today. And I'm
9 not sure if she is even going to survive to be able to be
10 in court to accept her contribution.

11 The other codefendants that have already been
12 sentenced, they all received, my understanding,
13 probationary sentences, Your Honor.

14 The incident with the search warrant, went into the
15 home. He was actually in the county. He wasn't even there
16 when this occurred, but it was his room. He did have
17 knowledge of what was going on, Your Honor.

18 So it sounds extremely bad by all of the charges, by
19 all of the dates, by his prior record, Your Honor, but when
20 we really look at it, it was a half a gram with the feds.
21 It was a possession charge, and here we are today, Your
22 Honor. And I am very thankful to the solicitor's office
23 for getting us to this point so we could get here for these
24 charges, Your Honor.

25 I've explained to him that he's not eligible for

1 probation because of the distribution prior with the feds,
2 so he would not be eligible for a probationary sentence
3 here, Your Honor. But I'm asking the Court, honestly, for
4 the minimum here for him because he knows. He understands.
5 We've discussed it.

6 You've advised him that if something else was to occur
7 in the future he's exposed to a life sentence regardless of
8 what's happened in the past, regardless of some of these
9 that he's pleading to, .11 grams, .21 grams. He knows.
10 Again, this is it. And I think he knows he's wrong and to
11 make the change, Your Honor. And so that's why we're here
12 today. I'm asking for the minimal sentence for him.

13 His fiancée and his sister, they're both here.

14 If you could, please stand for me.

15 (Whereupon, the potential witnesses stood.)

16 MS. LAPHAM: I think his sister wanted to briefly
17 speak. And that's going to be it, Your Honor.

18 Come forward. You need to stand with me.

19 THE COURT: Tell us your name.

20 PRINCESS JETER: Princess Jeter.

21 THE COURT: Yes, Ms. Jeter.

22 PRINCESS JETER: I just wanted to say that he is a
23 really good man. You know, sometimes we make mistake as a
24 people. And I just hate that this is happening right now.
25 Thank you. And I say it, sir. I didn't want it to fall on

1 deaf ears. I needed you to hear me. You know, he's really
2 a great person.

3 THE COURT: Thank you, Ms. Jeter, for being here.

4 All right. Mr. Jeter, anything you want to say?

5 THE DEFENDANT: Yeah. First, I want to apologize to
6 my family and the courts for my -- the situation we have
7 here and let the courts know I do accept responsibility.

8 THE COURT: All right. Thank you.

9 The sentence on each of these indictments are all the
10 same. 2016-3788, 1672, 1670, 1671, sentence on each of
11 those indictments to run concurrent. He is to be committed
12 to the state Department of Corrections for a determinate
13 term of five years. Credit for 215 days. Thank you.

14 END OF REQUESTED TRANSCRIPT OF RECORD

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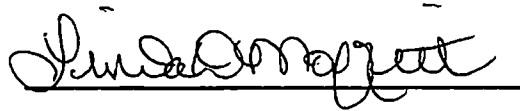
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 25th day of August 2016.

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

April 19, 2017



Linda D. Moffitt
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Spartanburg)
)
)
)
 Full name and prison number (if any) of Applicant:)
 Shonathan M Jeter 364635)
 v.)
)
 State of South Carolina)
)

IN THE COURT OF COMMON PLEAS

2017-CP-42-1011

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Alford
2. Name and location of Court which imposed sentence Spartanburg County General Session
3. Name(s) of co-defendant(s) (if any) Ashley Jackson Aleah Holman Kenneth Lee Jackson Justin Brown Dorian Ashitt
4. **The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:**
 - (a) 19329565 = 16-GS-4203788 Ad 2015A4210104564 = 16-GS-420672
 - (b) 2015A4210104392 = 16-GS 4201670
 - (c) 2015A4210104343 = 16-GS 4201671
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 08-25-2016 5 years
 - (b) _____

M. HOPE BLAUGHER
 2017 MAR 27 PM 2:49
 Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) I didn't know anything about the situation.
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

2012 MAR 27 PM 2:49
 MARIPOSA COUNTY

- (a) I plead guilty to more Charges than the
- (b) State recommended
- (c) _____

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

- (a) I have the Plea Arraignment letter that was
- (b) Sent to my lawyer from the State
- (c) _____

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

- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No

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

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (c) the disposition thereof:
 - i. _____
 - ii. _____
 - iii. _____

2017 MAR 27 PM 2:49
 M. HOPE SLACKLEY

- iv. _____
- (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

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

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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 H. HOPE BLANKET

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) I wasn't aware of my situation until I went to
- (b) the prison law library.
- (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, but didn't go that far.
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- Richard Welch - P.O. Spartanburg County
 - Lanidice Lapham - 184 N. Daniel Morgan Ave.
Spartanburg SC 29306
 - _____
- (b) the proceedings at which each such attorney represented you:
- Mr Welch^{was} there the entire time, Ms. Lapham took me
 - in front of Judge. Ms Lapham was sub-Attorney for mister
 - Welch during plea arraignment in court.
19. State clearly the relief you seek in filing this application:
To Drop the trafficking from my sentence
20. Are you now under sentence from any other court that you have not challenged?
No

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M. J. H. BLACKLEY

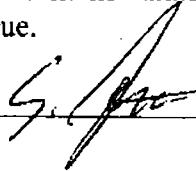
STATE OF SOUTH CAROLINA)

County of Spartanburg)

Shonathan

VERIFICATION

I, Jate, 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 22nd
day of MARCH, 2017.

Debbie S. Phillips (L.S.)
Notary Public

My Commission Expires: July 10, 2024

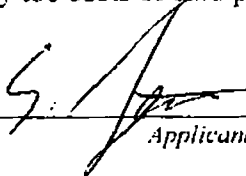
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M. HOPE BLAIR

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

Shoreman
Seter

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
22nd day of March, 2017.

D. Allen K. Phillips
 Notary Public

My Commission Expires: July 10, 2024

2017 MAR 27 PM 2:49
 M. HOPF-BLACKLEY

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	IN THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)	
)	
Shonathan M. Jeter, #369635,)	Case No.: 2017-CP-42-1011
)	
Applicant,)	
)	RETURN
v.)	
)	
State of South Carolina,)	
)	
Respondent.)	
<hr/>		

Respondent, making its Return to the application for Post-Conviction Relief ("PCR") filed on March 27, 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In March 2015, the Spartanburg County Grand Jury indicted Applicant for two counts of distribution of cocaine base, second offense (2016-GS-42-1670, -1671) and possession with intent to distribute (PWID) cocaine base, second offense (2016-GS-42-1672). Applicant was also charged for trafficking in cocaine, 10-28 grams, second offense (2016-GS-42-3788). Candice Lapham, Esquire represented Applicant. Assistant Solicitor James Zachary Farr prosecuted the case. On August 25, 2016, Applicant pleaded guilty as indicted to both counts of distribution of cocaine base and PWID cocaine base before the Honorable Daniel D. Hall. Applicant also waived presentment to the grand jury and pleaded guilty to the trafficking charge. Judge Hall sentenced Applicant to imprisonment for concurrent terms of five years for each charge. Applicant did not appeal his conviction or sentence.

Attached to this Return and incorporated by reference are the records of the Spartanburg

County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "I pleaded guilty to more charges than the State recommended."
2. "I have the plea arraignment letter that was sent to my lawyer from the State."

III.

Respondent interprets Applicant's claim as one of ineffective assistance of counsel. Respondent submits Applicant's allegations are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442. "Counsel is strongly presumed to

have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118. 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. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

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

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits, witnesses, and materials used to produce potential expert witness testimony be provided to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

V.

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

VI.

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

[Remainder of page left blank intentionally]

VII.

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

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

VALERIE GARCIA GIOVANOLI
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

October 5, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
)
)
 SHONATHAN M. JETER, #369635,)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS


2017-CP-42-1011

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:

Rodney Wade Richey, Esquire
Richey & Richey, PA
Post Office Box 10916
Greenville, South Carolina 29603-0916

DATED this the 5th day of October, 2017.


 Lindsey McCoy, Legal Assistant
 For Respondent

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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT

Shonathan M. Jeter,)
Applicant,) TRANSCRIPT OF RECORD
-vs-) 2017-CP-42-1011
The State.) November 17, 2017
Spartanburg, South Carolina

B E F O R E :

HONORABLE G. THOMAS COOPER, JUDGE

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

RODNEY WADE RICHEY, ESQUIRE
Attorney for the Applicant

VALERIE GARCIA GIOVANOLI, ESQUIRE
Attorney for the State

Linda D. Moffitt
Circuit Court Reporter

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Candice Koopman Lapham
Direct examination by Mr. Richey

1 THE COURT: Who is this?

2 MS. GIOVANOLI: This is Shonathan Jeter vs. the State
3 of South Carolina.

4 THE COURT: All right. You may proceed.

5 MS. GIOVANOLI: Thank you, Your Honor.

6 Docket No. 2017-CP-42-1011. We're before the Court on
7 an application for post conviction relief filed on
8 March 27th of 2017.

9 In March of 2015 applicant was indicted for two counts
10 of distribution of cocaine base second offense and
11 possession with intent to distribute cocaine base second
12 offense.

13 Applicant was also charged for trafficking in cocaine
14 10 to 28 grams second offense.

15 Candice Lapham represented applicant, and on
16 August 25th of 2016 applicant pled guilty as indicted to
17 both counts of distribution of cocaine base and possession
18 with intent to distribute cocaine base before the Honorable
19 Daniel D. Hall.

20 Applicant also waived presentment to the grand jury
21 and pled guilty to the trafficking charge. Judge Hall
22 sentenced applicant to imprisonment for concurrent terms of
23 five years for each charge.

24 The state also dismissed two gun charges in exchange
25 for that guilty plea. Applicant did not appeal his

Candice Koopman Lapham
Direct examination by Mr. Richey

1 conviction or his sentences.

2 He thereafter filed an application for post conviction
3 relief.

4 The state is present and ready to proceed. Applicant
5 is also present. He's represented by Mr. Rodney Richey to
6 whom I will hand it over now.

7 THE COURT: Mr. Richey.

8 MR. RITCHEY: Okay. We call Ms. Lapham.

9 CANDICE KOOPMAN LAPHAM, having
10 been first duly sworn, testified as follows:

11 THE COURT: State your full name for the record.

12 THE WITNESS: Candice Lapham.

13 DIRECT EXAMINATION BY MR. RICHEY

14 Q Ms. Lapham, this is a case brought by Mr. Jeter for
15 post conviction relief, correct?

16 A Correct.

17 Q And you represented him.

18 A I did.

19 Q Okay. And you represented him on four charges, is that
20 correct?

21 A It was originally six, but we ended up pleading to
22 four.

23 Q The six -- the other two were gun charges?

24 A Correct.

25 Q At the time that you -- at the time y'all pled y'all

Candice Koopman Lapham
Direct examination by Mr. Richey

1 pled to no recommendation, is that right?

2 A Correct.

3 Q And you took over for the public defender, is that
4 correct?

5 A Correct.

6 Q And did you have access to his file?

7 A I did.

8 Q Was -- do you recall an offer being in his file?

9 A No offer to my recollection.

10 Q Okay. So it's your -- your testimony that you don't
11 remember any offer being made in this case?

12 A Correct.

13 Q Was there an offer presented to you?

14 A It was more of a charge bargain, basically, because
15 there was some issue whether it was going to be a second
16 offense or his third offense because he had prior federal
17 charges.

18 And so we agreed to plead straight up to the second
19 offense level. And they were going to dismiss the gun
20 charges. The gun charges were concerning me because he was
21 actually a felon. And I was trying to at that point, you
22 know, minimize those.

23 Q And do you recall the sentence range?

24 A His largest range was 5 to 30.

25 Q Okay. And did you go over the discovery with him?

Candice Koopman Lapham
Direct examination by Mr. Richey

1 A I did.

2 Q In that discovery these -- these charges require at
3 least ten grams, is that correct?

4 A Correct for the trafficking charge.

5 Q Yeah. And did you discuss that with Mr. Jeter?

6 A I did.

7 Q And did you show him any evidence of that weight?

8 A What happened with that charge was that one was pled
9 under a waiver. We had the field weight and we had some
10 information from the lab. We didn't have the written report
11 back --

12 Q Right.

13 A -- which he knew when he pled. That was put on the
14 record. That case he also had a codefendant in. And so the
15 weight in ballpark was around 11 grams, which was over the
16 10-gram minimum.

17 Q Okay. And so okay. So y'all -- to get the plea that
18 you all wanted it is your testimony you had to plea at that
19 time?

20 A We pled with Judge Hall under those terms.

21 Q Okay.

22 A Three had been indicted; one had not. And he had been
23 fully explained that.

24 Q Okay. Thank you. Answer any questions the attorney
25 general has, please.

Candice Koopman Lapham
Cross-examination by Ms. Giovanoli

1 A Thank you.

2 CROSS-EXAMINATION

3 BY MS. GIOVANOLI

4 Q Thank you for being here, Ms. Lapham.

5 Isn't it true that he was facing 120 years plus the gun
6 charges if he had pled to the gun charge or been convicted
7 of the gun charges also?

8 A Correct.

9 Q And he actually received five years on all of these
10 charges concurrent, is that correct?

11 A He did. That was the mandatory minimum.

12 Q And, now, I guess your testimony is that you didn't
13 have all of the discovery with regard to the trafficking
14 charge, is that correct?

15 A Correct. I had all of the discovery except for the
16 printed log of what the drug weight was. We were going off
17 the field weight and what we were told from the labs. And
18 he was wanting to plead that week with that particular
19 judge, and so.

20 Q I'm sorry. And you explained that to the applicant,
21 didn't you?

22 A I did.

23 Q Would there be any reason that you would -- let me
24 retract that. Did the applicant want to plead guilty in
25 this case?

Candice Koopman Lapham
Cross-examination by Ms. Giovanoli

1 A He did.

2 Q Did he want to pursue a trial? Did he ever express his
3 desire to pursue a trial?

4 A He did not.

5 Q So whenever you were engaging in plea negotiations did
6 you ever consider allowing him to plead guilty to the --
7 everything except the trafficking and then pursue trial on
8 the trafficking waiting for a report as to the lab weight?

9 A I did. However, because of the terms that we had for
10 the other charges my concern was it would be in his benefit
11 to do it all globby, and plus he wanted the -- what in -- in
12 the jail line was the benefit of Judge Hall to be honest.
13 And so that's why he wanted to do everything at one time,
14 which he agreed to, he pled to. It was put on the record
15 with regard to the issue of the 11 grams.

16 Q Is Judge Hall known to be more of a lenient judge?

17 A In some regards, yes.

18 Q Isn't it true that he had -- this would put him at four
19 strikes with guilty pleas and the next one would be an LWOP?

20 A Correct.

21 Q Did you discuss that with him?

22 A I did. And that was truly how we, I think, got the
23 minimum sentence. I was in a sense begging Judge Hall to
24 put his life in his own hands, and that's how we actually
25 obtained that minimum sentence.

Candice Koopman Lapham
Cross-examination by Ms. Giovanoli

1 Q Just as a background, how long have you been practicing
2 criminal law?

3 A Since 2005.

4 Q And it's your testimony today that you reviewed all of
5 the discovery that you had in your possession with the
6 applicant.

7 A I did.

8 Q And did you believe he understood all of the evidence
9 against him?

10 A I do.

11 Q And was it his decision to plead guilty?

12 A Yes, it was.

13 Q And it was based on your advice.

14 A Correct.

15 Q I have no further questions. Thank you.

16 MR. RITCHEY: No other questions.

17 THE COURT: All right. You may come down, ma'am.

18 Thank you very much.

19 May this witness be excused?

20 MS. GIOVANOLI: I would request that she not be
21 excused at this point.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: All right.

24

25

Shonathan Jeter
Direct examination by Mr. Richey

1 through my discovery that at the end of my motion there was
2 a plea bargain that the state had with Mr. Richard Welch at
3 the time for the three charges, which is the two
4 distribution, a P.W.I.D., and/or I could have pled to the
5 trafficking of his own.

6 Q Okay. You could have pled. You had the choice to go
7 to three distributions or one trafficking, correct?

8 A Yes, sir.

9 Q Did -- and were you relayed that offer by him?

10 A Yes, sir.

11 Q Did he tell you the offer?

12 A Yes, sir.

13 Q Did you all make a decision on whether you were going
14 to take that offer or not?

15 A Well, at the time when he came and talked to me I had
16 hired Ms. Lapham to substitute for me in the case because he
17 said he had a work load. I hired her to take some of the
18 work load off. And we discussed the situation about the
19 plea deal.

20 Q You hired her to represent you instead of him. Is
21 that --

22 A Well, yeah. To take the case load off, to substitute
23 for him.

24 Q Okay. Did -- did she discuss this offer with you?

25 A Yes, sir. We had talked about it because, see, in my

Shonathan Jeter
Direct examination by Mr. Richey

1 motion she told me the next day that she was going to talk
2 to the prosecutor and see what he had to say about it. And
3 she never got back with me at the time.

4 Q Okay. Did you ever accept the offer?

5 A No. I never got the chance to even get the chance to
6 speak upon the offer because I went to court the next day.
7 And so when I came into court I came straight in to take a
8 plea. So I never got to discuss it with her or anything
9 about what the plea was going on.

10 Q So -- so under the offer that you say you had you
11 could -- you could have conceivably got a greater sentence
12 under the plea offer, is that --

13 A No. I could have had a better sentence which would
14 have gave me a chance for parole or a chance for work
15 release, and also nonviolent, 65 percent of my time versus
16 with the trafficking it's I don't get none of that
17 privilege.

18 Q So -- so you're asking the Court to give you a new
19 trial based on not -- your counsel not discussing the plea
20 offer with you?

21 A Yes, sir.

22 Q Or allowing you to accept it.

23 A Yes, sir, involuntary.

24 Q Okay. So you believe that it was involuntary because
25 you were not able to accept the plea offer.

Shonathan Jeter
Cross-examination by Ms. Giovanoli

1 A Correct.

2 Q Okay. Thank you. Answer any questions the attorney
3 general has.

4 CROSS-EXAMINATION

5 BY MS. GIOVANOLI

6 Q Okay. So let me just clarify your testimony.

7 You're testifying that there was an offer made when
8 Richard Welch represented you, is that correct?

9 A Correct.

10 Q Ms. Candice Lapham knew about that offer.

11 A Yes, ma'am.

12 Q And you guys discussed that offer.

13 A Yes, ma'am.

14 Q Okay. And so why didn't you accept the offer?

15 A Because I had knowledge that she was going to come and
16 let me know how he felt about the offer.

17 Q Okay.

18 A And never got it.

19 Q What was the offer?

20 A The offer was I can plead to P.W.I.D., two
21 distribution, second offense, or I could plead to
22 trafficking second offense 10 to 28.

23 Q And what was the sentence?

24 A The sentence was ten years.

25 Q So your testimony today is that you would have

Shonathan Jeter
Cross-examination by Ms. Giovanoli

1 preferred to take a 10-year sentence and pled to possession
2 with intent to distribute and two distribution charges as
3 opposed to pleading to what you did and getting five years?

4 A Yeah. It would have been -- I would have had a chance
5 for parole and I would have had a chance for work release
6 and also it'd been non -- nonviolent.

7 Q Okay. Well, at no point during the guilty plea
8 proceeding did you actually mention that to the judge, to
9 your lawyer. Why didn't you mention that?

10 A Because I was on -- going off the strength of my
11 counselor. I was just going off the strength of her.

12 Q So you were going off of the advice of your counsel?

13 A Yes, ma'am.

14 Q And her advice was that it was a better deal to take
15 the five years than the ten?

16 A Yeah. We just went in with no negotiations.

17 Q But she didn't --

18 A Yeah. It was because of -- it was because of my
19 codefendant was sick. And so when we went in, so she was,
20 like, they allow me to take the charge the rest of my
21 codefendant, why she was sick at the time. So I took the
22 offer. I went in.

23 Q Okay. So you were aware of both of these offers, and
24 your counsel advised you to take the 5-year offer, and you
25 accepted that offer.

Shonathan Jeter
Cross-examination by Ms. Giovanoli

1 A No. The offer was no recommendation.

2 Q Okay. But you got five years.

3 A Correct.

4 Q And you testified under oath at your guilty-plea
5 hearing, is that correct?

6 A Yes, ma'am.

7 Q And on page nine, line 15, you expressed that you were
8 satisfied with Ms. Lapham's representation, is that correct?

9 A Yes, ma'am.

10 Q Was that a lie?

11 A No. I was satisfied at the time until I saw the offer
12 that they had for me, that I could have had from the
13 beginning, because I didn't know the difference between the
14 nonviolent and the violent of my charges.

15 Q Okay. I further questions. Thank you.

16 MR. RITCHEY: No other questions.

17 THE COURT: All right. You can come down. Thank you.

18 MR. RITCHEY: No more witnesses.

19 MS. GIOVANOLI: Your Honor, the state would recall
20 Candice Lapham.

21 THE COURT: Come around, Ms. Lapham. You are still
22 under oath.

23

24

25

1 MS. GIOVANOLI: There's no further witnesses. The
2 state rests.

3 THE COURT: Thank you very much. Proposed orders in
4 30 days.

5 END OF REQUESTED TRANSCRIPT OF RECORD
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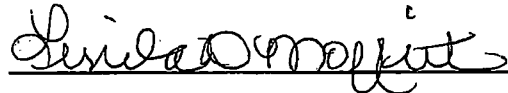
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 17th day of November 2017.

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

March 26, 2018



Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Shonathan M. Jeter, #369635,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

2017-CP-42-1011

**ORDER OF DISMISSAL
WITH PREJUDICE**

CLERK OF COURT
SPARTANBURG COUNTY
2018 JAN 24 PM 1:20
M. HOPE BLACKLEY

This matter comes before this Court by way of an application for post-conviction relief (PCR) filed by Shonathan M. Jeter (Applicant) on November 7, 2016. The State (Respondent) made its return requesting an evidentiary hearing be held. An evidentiary hearing into the matter was convened on November 17, 2017 at the Spartanburg County Courthouse. Applicant was present and represented by Rodney Richey, Esquire. Valerie Garcia Giovanoli, Esquire, of the Office of the Attorney General represented Respondent.

At the hearing, Applicant testified on his own behalf. Candice Lapham, Esquire, (Counsel) also testified. This Court had before it a copy of the Spartanburg County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, the plea transcript, the PCR application, and Respondent's return.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In March 2015, the Spartanburg County Grand Jury indicted Applicant for two counts of distribution of cocaine base, second offense (2016-GS-42-1670, -1671) and possession with intent to distribute (PWID) cocaine base, second offense (2016-GS-42-1672). Applicant was also charged for trafficking in

cocaine, 10-28 grams, second offense (2016-GS-42-3788). Candice Lapham, Esquire represented Applicant. Assistant Solicitor James Zachary Farr prosecuted the case. On August 25, 2016, Applicant pleaded guilty as indicted to both counts of distribution of cocaine base and PWID cocaine base before the Honorable Daniel D. Hall. Applicant also waived presentment to the grand jury and pleaded guilty to the trafficking charge. Judge Hall sentenced Applicant to imprisonment for concurrent terms of five years for each charge. The State dismissed two weapon charges in exchange for Applicant's guilty plea. Applicant did not appeal his conviction or sentence.

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

1. Ineffective Assistance of Counsel / Involuntary Guilty Plea

- a. "I pleaded guilty to more charges the State recommended."
- b. "I have the plea arraignment letter that was sent to my lawyer from the State."

2019 JAN 24 PM 1:20
 CLERK OF COURT
 SAN ANTONIO COUNTY
 M. HOPE BLACKLEY

SUMMARY OF TESTIMONY AT PCR

I. Counsel testified to the following:

Counsel has been practicing criminal law since 2005. Counsel was retained to represent Applicant after Richard Whelchel was appointed through the Public Defender's Office. Counsel represented Applicant on six criminal charges, however, Applicant only pled to four of them. Applicant pled without recommendation or negotiations. Counsel did not recall any offer from the State during her representation. Applicant agreed to plead to second offenses with no recommendation or negotiation other than having his two weapon charges dismissed. With regard to Applicant's trafficking charge, Counsel did not have all the discovery yet. However, Counsel did have the initial police reports and knew the field weight was 11 grams. However, it

was in Applicant's best interest to waive presentment on the trafficking charge and plead guilty at the same time in order to resolve all of his outstanding charges together.

II. Applicant testified to the following:

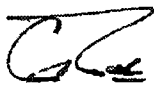
Applicant testified the State made a ten year offer to resolve the two distribution charges and the PWID charge. Applicant testified Counsel discussed with him the plea offer, but he neither accepted nor rejected the offer. He now wishes he would have accepted the ten year offer because he believes it would have been a better sentence by giving him a chance of parole and/or work release. As such, Applicant testified his guilty plea was involuntary.

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 had the opportunity to observe the witnesses presented at the hearing, and has weighed their testimony and credibility accordingly. Below are the findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017). Applicant has failed to prove by a preponderance of the evidence that Counsel was deficient or that he was prejudiced by any deficiency.

I. Ineffective Assistance of Counsel

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), SCRCP). 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,

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 COURT

466 U.S. 668, 104 S.Ct. 2052, 2064 (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). 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 (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. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

Applicant also asserts his plea was involuntary. The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton, 376 S.C. 138, 654 S.E.2d at 874 (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the

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applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, 376 S.C. at 137–38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). “In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing.” Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363–64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not “within the competence demanded of attorneys in criminal cases.” Hill v. Lockhart, 474 U.S. 52, 56 (1985). Further, “[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing.” McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, “whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or

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 STATE COURT

wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases.” Id. at 771.

The record fully supports the knowing and voluntary nature of Applicant's plea. Applicant has failed to give a sufficient reason to be allowed to depart from the truth of his statements made during his guilty plea. Specifically, Applicant told the plea judge, under oath, that the decision to enter his plea was of his “own free will and accord,” after being advised by the court the possible penalties he faced. (Tr. p. 10, ll. 6-8). To the extent Applicant is attacking his guilty plea based on ineffective assistance of counsel, this Court finds Counsel was in no way ineffective. Applicant testified he had a better offer of ten years, but failed to substantiate this claim. Applicant did not allege Counsel failed to inform him of the offer, rather he testified Counsel discussed the offer with him. Counsel’s testimony on the issue was more credible. Counsel testified there was no ten year offer. It would make little sense for a criminal lawyer of twelve years to advise her client not to accept a ten year offer and instead advise him to plead open to charges exposing Applicant to potentially one hundred and twenty years. This Court further finds Counsel’s advice to plead guilty was sound in light of the evidence the State had against him and the benefit he received by way of the dismissal of two other five other criminal charges. (See Tr. p. 3, ll. 17-18). This Court does not find credible Applicant’s testimony that he would have accepted a ten year plea offer had he known he would receive five years by pleading open or that he would have been parole eligible under the alleged plea offer. Applicant has failed to meet his burden of proving his guilty plea was involuntary or that Counsel was in any way ineffective.

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 COURT
 COUNTY

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CONCLUSION


Based on all the foregoing, this Court finds and concludes Applicant has not established any violations that would require this Court to grant his application. This Court finds Applicant has failed to prove any deficiencies on the part of Counsel and further, Applicant has failed to prove prejudice from any alleged deficiencies in Counsel's representation of him. Therefore, as Applicant has failed to meet his burden of proof in this post-conviction relief action, his application is denied and dismissed with prejudice.

This Court notifies Applicant he must file and serve a notice of appeal within thirty (30) days from receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. An applicant has a right to an appellate counsel's assistance when they are seeking review of the denial of PCR. Austin v. State, 305 S.C. 453 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. See Rule 71.1 (g), SCRCP. You must look at Rule 243 of the South Carolina Appellate Court Rules for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

- 1. The application for Post-Conviction Relief is denied and dismissed with prejudice;
- 2. Applicant shall remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 22nd day of January, 2017


 G. THOMAS COOPER, JR.
 Presiding Judge
 Seventh Judicial Circuit

Counsel, South Carolina

2017 JAN 24 PM 1:20
 M. HOPKINS BLAKEY
 CLERK OF COURT
 SEVENTH JUDICIAL CIRCUIT

Spartanburg County

Spartanburg County Court House
180 Magnolia Street
P. O. Box 3483
Spartanburg, SC 29304-3483

Phone (864) 596-2591
Fax (864) 596-2239



M. Hope Blackley
Clerk of Court

January 24, 2018

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Shanatha McJeter
369635

Applicant

7TH JUDICIAL CIRCUIT

CASE # *2017CP42-1011*

vs
State

Respondent

CERTIFICATE OF SERVICE

I certify that, on this date, I served a copy of the *Order Dismissing w/ prejudice*
In this action dated *1-22*, 2018 on *1-24-18*

By mailing to him/her, at his/her last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Verice Giokaroli
Hindley McCoy
Robney Pickle

RECORDED
SPARTANBURG COUNTY
2018 JAN 24 PM 1:20
M. HOPE BLACKLEY

1-24-18

(Date)

Corrie Seay

(Signature)

WITNESSES

DOCKET NO.

16-GS-42-1670

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 29 2016

TERM

SPTBG CO SHERIFF'S OFFICE

Jimmy W. Powers

True Bill

ARREST WARRANT NUMBER

2015A4210104392

THE STATE

vs.

ACTION OF GRAND JURY

SHONATHAN M. JETER

MAR 25 2013

Foreperson of Grand Jury
Date:

2016 MAR 29 AM 11:56
M. HOPE BLACKLEY

WITNESSES MADE VERDICT

CP

COMMITTEE

WITNESSES MADE

CP

WITNESSES MADE

CP

WITNESSES MADE

CP

WITNESSES MADE

CP

Foreperson of Petit Jury

Date:

COMMITTEE

WITNESSES MADE

CP

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

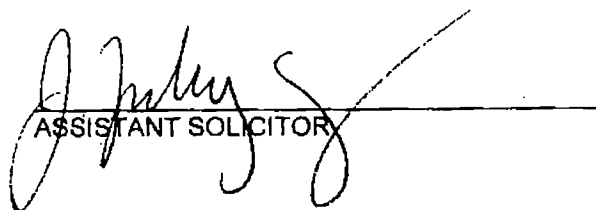
INDICTMENT

At a Court of General Sessions, convened on NOV 23 2016 the
 Grand Jurors of Spartanburg County present upon their oath:

DISTRIBUTION COCAINE BASE

That Shonathan M. Jeter did in Spartanburg County on or about November 2, 2015, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine Base, a schedule II controlled substance under provisions of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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


 ASSISTANT SOLICITOR

WITNESSES

SPTBG CO SHERIFF'S OFFICE

True Bill

Jimmy W. Powers

ARREST WARRANT NUMBER

2015A4210104393

ACTION OF GRAND JURY

MAR 25 2016

Foreperson of Grand Jury
Date:

COCAINE BASE

VERDICT

REPEATED

COMPLETED

SEARCHED

INDEXED

FILED

Foreperson of Petit Jury
Date:

COMPLETED

DOCKET NO. **16-GS-42-1671**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 23 2016

TERM

THE STATE
vs.

SHONATHAN M. JETER

Indictment for

DISTRIBUTION OF COCAINE BASE

SC Code: 44-53-375

2016 MAR 29 AM 11:56

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

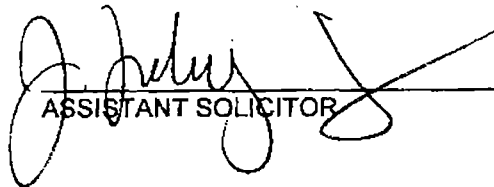
OCT 26 2015

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

DISTRIBUTION COCAINE BASE

That Shonathan M. Jeter did in Spartanburg County on or about October 26, 2015, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine Base, a schedule II controlled substance under provisions of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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


ASSISTANT SOLICITOR

WITNESSES

Spartanburg Sheriff's

ARREST WARRANT NUMBER

K-329565

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

COMPIRE

Foreperson of Petit Jury
Date:

COMPIRE

DOCKET NO -

16-GS-42-3788

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUL 25 2016

TERM

THE STATE

vs.

Shonathan M. Jeter

Indictment for

TRAFFICKING IN COCAINE

SC Code 44-53-375

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

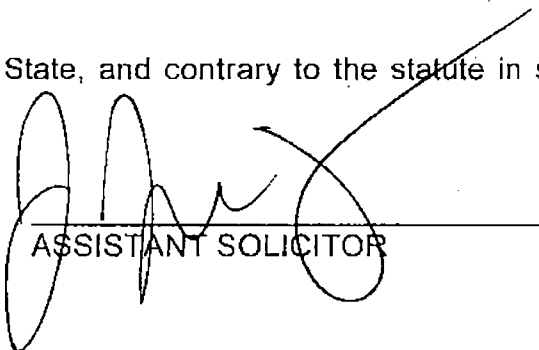
At a Court of General Sessions, convened on JUL 22 2016, the

Grand Jurors of Spartanburg County present upon their oath:

TRAFFICKING IN COCAINE

That the defendant, Shonathan M. Jeter, did in Spartanburg County on or about March 9, 2016, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess more than 10 grams of Cocaine, a schedule II controlled substance, in violation of §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended:

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



ASSISTANT SOLICITOR

WITNESSES

SPTBG CO SHERIFF'S OFFICE

True Bill

Jimmy W. Powers

ARREST WARRANT NUMBER

2015A4210104564

ACTION OF GRAND JURY

MAR 25 2016

Foreperson of Grand Jury

Date:

- 1. SENTENCE MARKED
- 2. REPORT ENDED VERDICT **CONDIT**
- 3. CARD PULLED
- 4. INDEXED
- 5. CHECKED WORKSHEET
- 6. CHECKED EXHIBITS
- 7. ASSESSED COSTS COURT **FILED**
- 8. TRAFFIC VIOLATION COPY

Foreperson of Petit Jury

Date:

DOCKET # **15-GS-42-1672**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 23 2016

TERM

THE STATE

vs.

SHONATHAN M. JETER

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE
COCAINE BASE

SC Code: 44-53-375

2016 MAR 29 AM 11:56

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

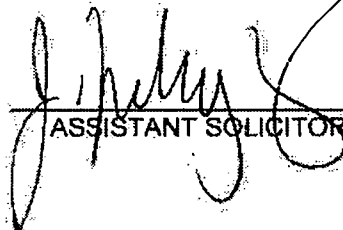
NOV 24 2015

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

POSSESSION WITH INTENT TO DISTRIBUTE

That Shonathan M. Jeter did in Spartanburg County on or about November 24, 2015, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine Base, a schedule II controlled substance under provisions of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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



ASSISTANT SOLICITOR