

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Roger E. Henderson, Circuit Court Judge

TRAVIS FORD,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001299

APPENDIX

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South Carolina Commission on Indigent
Defense
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Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

RECEIVED

MAR 19 2018

S.C. SUPREME COURT

INDEX

INDEX i

GUILTY PLEA TRANSCRIPT DATED JULY 10, 2009 1

APPLICATION FOR POST-CONVICTION RELIEF (2012-CP-10-02862) 19

ORDER OF DISMISSAL (2009-CP-10-6837) 26

SECOND POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JULY 22, 2015
(2012-CP-10-02862) 35

ORDER GRANTING AUSTIN REVIEW 46

RECONSTRUCTION HEARING (MARCH 21, 2018) TRANSCRIPT OF JULY 20, 2010
POST-CONVICTION RELIEF HEARING 47

STATE'S EXHIBIT #1 FROM THE RECONSTRUCTION HEARING 73

INDICTMENTS 95

1
2 THE COURT: All right. What do we got here?

3 THE ASSISTANT SOLICITOR: Your Honor, this is
4 Travis D. Ford. He is before Your Honor, pleading guilty
5 to trafficking cocaine, second offense, 10 to 28 grams
6 and PWID cocaine within a half mile proximity of a
7 school. State has negotiated a sentence on the
8 trafficking of 16 years; on the proximity, ten years to
9 run concurrent.

10 THE COURT: All right. You're Travis Ford?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Mr. Ford, you were indicted by
13 the Charleston County grand jury on two charges:
14 Indictment 2008-GS-10-7517 charges you with possession
15 with intent to distribute cocaine in proximity of a
16 school. Because of the amount and the number of
17 offenses, that would have carried a sentence of up to 25
18 to 30 years, 25 minimum. Looks like the state is going
19 to let you plead guilty to trafficking cocaine second,
20 which is 5 to 30 years and a \$50,000 fine. Do you want
21 to plead guilty to that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Indictment 2008-GS-10-7516 is for
24 trafficking cocaine -- let's see. The first one,
25 possession -- trafficking was the first one? All right.

1 2008-GS-10-7517 is for possession with intent to
2 distribute cocaine in proximity of a school, and that
3 carries a sentence of up to ten years, so you want to
4 plead guilty to two charges, possession with intent to
5 distribute cocaine within proximity of a school. Do you
6 want to plead guilty to that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Zero to ten years?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And 2008-GS-10-7516, which was a
11 trafficking cocaine third, you want to plead guilty to
12 trafficking cocaine second. Is that right?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Now, let me explain a
15 couple things to you. First of all, the trafficking
16 charge is a strike offense, and the possession with
17 intent to distribute cocaine is a strike offense. Did
18 your lawyer talk about what strike offenses are?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Okay. I just need to make sure
21 you understand. We have what we call strike offenses.
22 If you do enough of those, you go to jail for the rest of
23 your life. Both of these charges are what we call three
24 strike offenses, so you go to jail after three strikes,
25 or three convictions of strike offenses.

1 It looks like you've got previous strike
2 offenses that could very well have landed you in jail for
3 the rest of your life. It looks like you already had two
4 strikes. This would have been a third strike, but I
5 guess with the deal you worked out, they're not going to
6 ask for life without parole, but after today you, will
7 now have three strikes against you.

8 Needless to say, if you ever get convicted of
9 another strike offense in this state, you'll go to jail
10 for the rest of your life without the possibility of
11 parole. Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you still want to plead
14 guilty?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Now, you also have
17 the right to a jury trial. If you want a jury trial on
18 these charges, you simply let me know at any time in this
19 process, and we will arrange that for you. The state
20 then has to present enough evidence to convince 12 jurors
21 that you're guilty beyond a reasonable doubt. All 12
22 jurors have to agree that you're guilty in order to
23 convict you, and if convicted, you still have the right
24 to appeal. You can challenge the admissibility of the
25 state's evidence; you can put up evidence of your own;

1 you can testify if you want. If you don't want to
2 testify, the judge will tell the jury they're not to hold
3 that against you while they're deliberating. Do you
4 understand all those rights?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And do you still wish to plead
7 guilty?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And are you pleading guilty to
10 each of these charges because you're guilty of each of
11 these charges?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. Now, are you under
14 the influence of drugs or alcohol today?

15 THE DEFENDANT: No, sir.

16 THE COURT: Do you have any physical, mental,
17 or emotional conditions that keep you from understanding
18 what you're doing today?

19 THE DEFENDANT: No, sir.

20 THE COURT: You're standing next to your
21 lawyer, Mr. Peper. Are you satisfied with his
22 representation?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you need to spend any more
25 time with him?

1 THE DEFENDANT: No, sir.

2 THE COURT: Have you gone over these charges
3 with him?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And he's talked with you about
6 what evidence the state has against you?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Has he told you what the law is
9 on the distribution of drugs, trafficking drugs, what the
10 state has to prove in order to convict you on those?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And he told you about you have
13 the right to a jury trial?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And you decided after discussing
16 all that with him that you don't want to have a jury
17 trial?

18 THE DEFENDANT: No, sir.

19 THE COURT: You decided you don't want to
20 call any witnesses?

21 THE DEFENDANT: No, sir.

22 THE COURT: You don't want to tell the jury
23 your decide of the story?

24 THE DEFENDANT: No, sir.

25 THE COURT: Okay. You're satisfied with his

1 representation?

2 THE DEFENDANT: I'm satisfied.

3 THE COURT: Okay. Has anybody promised you
4 anything or threatened you to get you to plead guilty,
5 other than this negotiated sentence you've worked out
6 with the state?

7 THE DEFENDANT: No, sir.

8 THE COURT: All right. Now, this negotiated
9 sentence, if I accept it, is for, on the trafficking
10 charge, 16 years, and that is a no parole offense, so you
11 got to do at least 85 percent of that.

12 The cocaine charge, ten years. It will run
13 concurrent with a 16 year sentence, so that's the
14 sentence that you worked out if I accept it. Do you
15 understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: So you got to do 16 years, and
18 you got to do at least 85 percent of that. Do you
19 understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. So other than that
22 negotiated plea, nobody has promised you anything.
23 Nobody has threatened you to get you to plead guilty.
24 You don't have a beef with anybody at the jail that is
25 causing you to plead.

1 THE DEFENDANT: No, sir.

2 THE COURT: You don't have a beef with your
3 lawyer?

4 THE DEFENDANT: No.

5 THE COURT: He's done everything you've asked
6 him to do?

7 THE DEFENDANT: Yes.

8 THE COURT: All right. How old are you?

9 THE DEFENDANT: Twenty-six.

10 THE COURT: How far did you get in school?

11 THE DEFENDANT: Tenth grade.

12 THE COURT: Did you have a job before you got
13 arrested?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: What did you do?

16 THE DEFENDANT: I've been doing brick
17 masonry.

18 THE COURT: Are you married?

19 THE DEFENDANT: No, sir.

20 THE COURT: You got children?

21 THE DEFENDANT: No, sir.

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

23 MR. PEPPER: Just over a year, Your Honor.

24 THE COURT: Do you know the number of days?

25 Get that before we finish because I need to put that

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down.

MR. PEPER: Yes, sir.

THE COURT: All right. In your opinion, Mr. Peper, does this gentleman understand what he's doing when he waives his right to a jury trial?

MR. PEPER: Yes, sir, he does.

THE COURT: Does he understand what he's doing when he enters this guilty plea?

MR. PEPER: Yes, sir, he does.

THE COURT: Do you agree with his decision?

MR. PEPER: Completely, Your Honor.

THE COURT: I find that his plea is freely, voluntarily and intelligently made. What would the state like to tell me?

THE ASSISTANT SOLICITOR: May it please the Court: This incident occurred on June 13 of 2008 at Cannon Street Apartments at 188 St. Phillips Street in Charleston. Just for background, previous to this incident, the apartment manager at that location, it's a low income housing complex, he had requested Charleston police assistance with persons loitering on the property, selling narcotics. He had requested that Officer Feeters, who was one of the patrolman in that area, come on to the property, and if he saw people that did not belong there to try and get them to move on from the

1 property.

2 During the course of this, Officer Feeters
3 developed a rapport with a residence of apartment 80r,
4 Clifton Jenkins. Mr. Jenkins what admittedly a
5 recovering crack addict. He and Officer Feeters had
6 discussed his addiction and his attempts to overcome it.
7 Officer Feeters was trying to help him with that
8 addiction for quite some time.

9 On the date of this incident, Officer Feeters
10 was on foot patrol when he observed three suspects at the
11 foot of the stairs near apartment 804, which is on the
12 second floor. The officer was aware that these three
13 individuals -- he knew them from the area, knew that they
14 did not live in the apartment complex. They had no
15 business being there.

16 After he had finished a field interview with
17 them, he went upstairs to apartment 804 to check on
18 Mr. Jenkins since he was in the area. He knocked, asked
19 if Mr. Jenkins was okay, opened the door to check on
20 Mr. Jenkins to make sure he was all right, which he had
21 done in the past, and Mr. Jenkins had given him
22 permission to check on him. As he did, Mr. Ford was
23 inside the apartment, pushed the door shut on the
24 officer. The officer could see him behind the doorway.

25 At that point the officer, not knowing what

1 may be going on in the apartment and fearing for
2 Mr. Jenkins he forced his way in, announced police
3 presence, found Mr. Ford inside the apartment.
4 Mr. Jenkins and his girlfriend were in the living room,
5 in the kitchen area, and these are small apartments. The
6 bedroom is separate from the -- and, really, the bathroom
7 are really the only ones that are separate. It's a
8 common area from the kitchen to the living room.

9 There was a quantity of cocaine, just under
10 28 grams, 27.86 grams of cocaine in a bag by the kitchen
11 table. There was 1.3 grams of cocaine base; marijuana,
12 about a gram and a half of marijuana. There was also a
13 digital scale that was found with the cocaine.
14 Mr. Jenkins told the officers the cocaine belonged to
15 Mr. Ford.

16 Apparently, the investigation alleges that
17 Mr. Ford went to the residence with the intent to
18 possibly sell the cocaine out of it or potentially cook
19 up the cocaine. Mr. Ford denied at the scene the drugs
20 belonged to him, stated that he was there to have sex
21 with some female. The only person present was the
22 resident's girlfriend, who denied that she was there for
23 that purpose.

24 Based on his prior record, Your Honor, the
25 state could have sought life without parole sentence. I

1 think based on his record and the fact he'll now have
2 three strikes, 16 years negotiated is appropriate, given
3 his history, get him off the street, and give him some
4 time.

5 THE COURT: All right. Mr. Pepper?

6 MR. PEPER: Thank you, Your Honor. May it
7 please the Court, Mark Peper on behalf of Travis. Travis
8 is joined today by his mother and other family members
9 who are in the courtroom in the back left row, Judge, and
10 long story short, you know, it takes an entire lifetime
11 to build up your reputation and one day to ruin it.

12 And for whatever reason, Mr. Ford, on turning
13 16, 17 years old, started running with the wrong crowd.
14 His mother and I were talking about that today. Travis
15 is a bright young man. He's been able to get his GED
16 over the last six, eight years. He's a peer mentor in
17 the peer program at the jail. He received his baptism
18 certification while he was there. He was nominated three
19 consecutive times as being peer of the week.

20 I've got a few letters that I would like to
21 hand up at some point, Judge, regarding his ability to
22 lead and be a productive member of society. For whatever
23 reason, he just got caught up with the wrong crowd at the
24 wrong time, and as I said, it only takes one day to bring
25 that reputation down.

1 One thing I will say on his behalf, Judge, is
2 that he seems to realize this is the straw that broke the
3 camel's back here. This is his last chance to rectify
4 his life. When I first was retained by Travis and his
5 family to come on board, it was very clear that the state
6 had the ability to ask for a life without parole or
7 notify Travis that -- a sentence would be sought for
8 LWOP, and through negotiations with the state and myself
9 and through investigation, we were able to have a meeting
10 of the minds and we certainly are very respectfully
11 thankful to the state for offering us less than obviously
12 what we would qualify for, that is life without parole.

13 Have had several discussions with the family,
14 and, fortunately, he is young in age and with the 85
15 percent that he'll be serving with, Judge, approximately,
16 392 days served.

17 THE COURT: 392?

18 MR. PEPPER: Yes, sir. He was incarcerated on
19 6/13/of '08. According to my calculations, that will be
20 392 days served as of today. When he is released, he'll
21 be able to be that kid that he was in the bow tie and the
22 seersucker pants that we discussed just earlier today as
23 the baby of the family.

24 Judge, I'm going to hand a few of these up to
25 you, and I certainly don't expect you to take time to

1 read all of them, but I do want you to know that he has
2 been inundated with requests, none of which he sought
3 from other peer program enrollees as well as his DOA
4 DAS program that he was in regarding drug and alcohol.

5 If I could just briefly read one of the
6 letters, he is the newly elected senior representative of
7 the peer community. Mr. Ford strives every day to learn
8 and implement the tools he needs to lead an honest and
9 productive life. He holds a voluntary prayer every night
10 before lockdown. He also holds voluntary NA group twice
11 a week. I believe he has learned his lesson and deserves
12 a second chance in life. Travis, in my eyes and the eyes
13 of the whole community, which looks up to him as a
14 leader, really believes Mr. Ford is ready and willing to
15 be an honest, responsible, and productive member of
16 society.

17 I truly believe that as well, Judge, and my
18 investigations of the witnesses that were there that
19 night and the people that intermingled with him, from
20 what I've gathered from them and how I've got to know
21 Travis, I think he's years in advance beyond them from a
22 mental level. I think he really is willing and able to
23 take responsibility of his life at this point.

24 We feel that given the evidence against us we
25 would not be successful whatsoever at trial, Judge. We

1 apartment, Mr. Jenkins, and his girlfriend as well, and I
2 think the state certainly would be able to prove beyond a
3 reasonable doubt that he committed these crimes.

4 But we are extremely thankful to the stat's
5 office for offering this, what amounts to 16 years, 85
6 percent, which we're hoping with time served he'll end up
7 doing right around 12 and a half years, Judge, so he'll
8 be out, be able to get married, start a family, have some
9 children, hopefully be a productive member of the entire
10 Ford family here.

11 On behalf of the entire family, Judge, we ask
12 that you accept the negotiated sentence of 16 years.

13 THE COURT: All right. Mr. Ford, do you want
14 to say anything?

15 THE DEFENDANT: Yes, sir, Your Honor. It's
16 only by grace I stand before you right now. Thank you
17 for allowing me to accept this plea. In my incarceration
18 peer program, the program taught me a lot, taught me how
19 to accept responsibility and taught me how to be
20 accountable for my actions, taught me a lot of different
21 tools and coping skills to make me more productive in
22 life.

23 I just ask that you would take into
24 consideration everything I gained through the
25 rehabilitation and everything else I gained, spiritual

1 rehabilitation and everything else I gained, spiritual
2 growth, and everything that I gained while incarcerated
3 and ask you to take that into consideration and be
4 lenient upon me on my sentencing.

5 I would like to thank my family for
6 supporting me mentally, emotionally, spiritually. I
7 would like to thank my girlfriend for continuing to be
8 here, and I thank the Court for not giving up on me.
9 Thank you.

10 THE COURT: All right.

11 MR. PEPER: May I approach, Your Honor.

12 THE COURT: Sure. The sad part about this
13 whole thing is it sounds like you're an intelligent man
14 and you're on the road to getting it figured out. The
15 problem is that, you know, you bit an awful big chunk on
16 this one and your past is catching up with you too, so
17 you get a long time in jail, 16 years on the trafficking
18 charge, 10 on the distribution and proximity of a school
19 charge. 85 percent of that. You're going to be pushing
20 40 when you get out. You're getting close to it at any
21 rate.

22 On the other hand, maybe can you do some good
23 while you're in there. It sounds like you're figuring
24 that out. I'll put on here ATU so you can get some drug
25 treatment while you're in there, if you desire, if you

1 still have a drug problem. At any rate, they need people
2 in jail that can talk to some of these young people that
3 are in there that haven't got it figured out yet, so
4 maybe you can do some good while you're in there as well
5 and make the most of this, and then when you get out you
6 can go back and try to be a parent to your children as
7 well.

8 Anyway, I'll go along with the sentence. I
9 find that he's freely, voluntarily, and intelligently
10 waived his rights. He's pleading, knows what he's doing.
11 State has presented enough evidence for me to accept the
12 charge, so 16 years on the trafficking charge, 10 years
13 on the possession with intent to distribute charge.
14 They'll run concurrent. I'm also revoking the probation
15 that you were on. That has a balance of five years, so
16 that will run concurrent with today. You'll get credit
17 for 392 days you've been in. Good luck to you.

18

- - -

19

(Whereupon, the proceedings were concluded.)

20

- - -

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25

I, the undersigned Amanda K. Haffenden, RPR, CRR, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the July 10, 2009.

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

December 24, 2009


Circuit Court Reporter

FORM 5

2012-CP-10-2862

STATE OF SOUTH CAROLINA)
County of Charleston)
TRAVIS FORD 285740)
Full name and prison number (if any) of Applicant)

IN THE COURT OF COMMON PLEAS

v.)

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

FILED
2012 MAY - 1 AM 11:39
JULIE J ARMSTRONG
CLERK OF COURT

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 Corr. Inst. P.O. Box 205, Ridgeville, SC 29472
2. Name and location of Court which imposed sentence CHARLESTON County General Sessions
3. Name(s) of co-defendant(s) (if any) NO
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) (indictment no. unknown) trafficking Cocaine
 - (b) (indictment no. unknown) possession with intent to distribute

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) July 9, 2009 16 years for trafficking (Sentence Concurrent)
 - (b) July 9, 2009 10 years for poss. w/intent (Sentence Concurrent)
 - (c) _____

- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty 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. n/a
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. n/a
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. n/a
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. n/a
 - ii. _____
 - iii. _____

- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) Counsel did not file an appeal after requested
 - (b) _____

(c) _____

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

(a) PCR Counsel failed to file Appeal from PCR

(b) CA No. _____

(c) _____

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

(a) Same As Above

(b) _____

(c) _____

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

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

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

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

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

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

(a) the specific nature thereof:

i. n/a

ii. _____

iii. _____

iv. _____

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

i. n/a

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

- i. n/a
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. n/a
- ii. _____
- iii. _____
- iv. _____

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

- i. n/a
- 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. n/a
- ii. _____
- iii. _____

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

- i. n/a
- 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) first post conviction relief filing
- (b) _____
- (c) _____

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

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

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

- (a) the name and address of each attorney who represented you:
 - i. MARK Peper, Esquire
1637 Savannah Hwy, Ste 2, Charleston, SC 29407
 - ii. n/a
 - iii. Same as above
- (b) the proceedings at which each such attorney represented you:
 - i. plea
 - ii. n/a
 - iii. Sentencing

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

Austin Review from denial of CANO

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

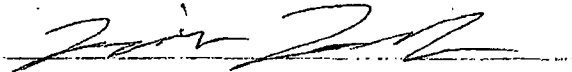
no

STATE OF SOUTH CAROLINA)

County of Dorchester)

VERIFICATION

I, TRAVIS FORD, 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 26th day of April, 2012.

Ludeman Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

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

I, TRAVIS FORD, 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.

Travis Ford
Applicant

SWORN or affirmed to and subscribed before me this
21st day of April, 2012.

Luduan Bryant
Notary Public

My Commission Expires: May 21, 2020

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Travis Ford, #285740,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 2009-CP-10-6837

ORDER OF DISMISSAL

FILED
 2010 AUG 10 AM 9:25
 JULIE J. ARMSTRONG
 CLERK OF COURT
 BY _____

Presiding Judge:
 Applicant's Attorney:
 Respondent's Attorney:
 Plea Counsel:
 Date of Hearing:
 Court Reporter:

Deadra L. Jefferson
 Molly Hughes Cherry, Esq.
 Matthew J. Friedman, Esq.
 Mark A. Peper, Esq.
 July 20, 2010
 Anne Meyer

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed October 29, 2009. The Respondent made its Return on January 25, 2010. An evidentiary hearing into the matter was convened on July 20, 2010 at the Charleston County Courthouse.¹ The Applicant was present at the hearing and represented by Molly Hughes Cherry, Esquire. Matthew J. Friedman, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Applicant's plea counsel,

¹ Counsel for the Applicant filed a Motion for Continuance on July 22, 2010 on the basis that the Applicant had expressed a desire to hire a different attorney. This Court heard the Motion for Continuance before the PCR hearing commenced. The Applicant filed his PCR Application on October 29, 2009 and Counsel for the Applicant was appointed on November 12, 2009. The State filed its Return on January 27, 2010. In regards to the Motion for Continuance, Counsel for the Applicant communicated to the Court that she was prepared for the hearing and ready to proceed. The Applicant filed his application ten months prior to this hearing and had more than adequate time to obtain alternate counsel if he desired to do so. However, at the time of the hearing, the Applicant had not hired alternate counsel and, therefore, the Court found that there was no basis for the request for a continuance and that the request for a continuance was simply a delay tactic. As such, the Court denied the Motion on the record.

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Mark A. Peper, Esquire, also testified at the hearing. This Court had before it the records of the Charleston County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, the PCR application, the State's Return thereto, and Applicant's Memorandum in Support of Application for Post-Conviction Relief dated July 20, 2010.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the October 2008 term of the Charleston County Grand Jury for trafficking cocaine (2008-GS-10-7516) and possession with intent to distribute (PWID) cocaine within proximity of a school (2008-GS-10-7517). Mark A. Peper, Esquire, represented the Applicant. On July 10, 2009, the Applicant pled guilty as indicted to the proximity charge and to a lesser-included offense of trafficking cocaine - 2nd offense. Pursuant to a negotiated plea agreement, the Honorable Roger M. Young, Sr. sentenced him to confinement for sixteen (16) years for trafficking cocaine and ten (10) years for the proximity charge. The sentences were to run concurrently. The Applicant did not appeal the conviction or sentence.

ALLEGATIONS

The Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel in that counsel
 - a. Did not have Applicant's best interest in mind.
 - b. Gave erroneous advice.
 - c. Failed to do any pretrial investigation.
 - d. Did not properly consult with Applicant about his desire to plead guilty.
 - e. Did not properly investigate potential Fourth Amendment violation relating to Applicant's search and seizure and did not adequately advise Applicant that proceeding to a hearing presented a strong possibility of evidence suppression.

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- f. Did not properly advise Applicant of the sentencing range for his charges.
2. Involuntary guilty plea.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

The Applicant testified that he met with counsel about three times. He asserted that counsel was not prepared to try the case. Applicant testified that counsel advised him that he would not win a suppression hearing on the drugs because the police had several signed statements that indicated that the drugs belonged to the Applicant. He testified that he asked counsel to delay the hearing, but counsel told him the Solicitor would begin the trial of the case during the following week if the Applicant decided not to plead guilty on the scheduled day of the plea. Applicant asserted that counsel did not investigate all possible defenses. He also testified that he could have taken an open plea rather than a negotiated plea, but he did not have enough time to discuss his options with his attorney.

Plea counsel testified that he or a member of his office met with Applicant at least four times between February 2009 and July 2009. He asserted that he did not file a motion to suppress the drugs because he waits until after the jury is sworn to make motions so jeopardy will attach. Counsel testified that the case came down to the testimony of Cooley Jenkins, who owned the apartment where the drugs were found. Counsel testified that Mr. Jenkins had

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previously stated that he saw the Applicant bring the drugs in the apartment and cut up cocaine lines. Counsel testified that he met with Mr. Jenkins nine days before the plea hearing and Mr. Jenkins indicated that he did not lie when he gave his previous statement and he would not change his statement. Counsel also testified that he spoke with Applicant's family before the plea. Additionally, counsel testified that his law clerks met with the Applicant, informed him that Mr. Jenkins would testify against him at trial, and showed him photos that had been taken at the apartment.

Counsel further testified that the Solicitor never offered the Applicant an open plea. Rather, the Solicitor offered a negotiated sentence of sixteen (16) years. Counsel testified that the Solicitor informed him that if the Applicant did not accept the negotiated plea, then the Solicitor would notice him for life without parole (LWOP) and put the case on the next trial docket. Counsel testified that he communicated this information to the Applicant. Counsel also testified that the Applicant did not have a strong case for trial, especially if the motion to suppress was denied. Counsel testified that he did not pressure Applicant to plead guilty, but he highly advised that Applicant accept sixteen (16) years rather than risk a LWOP sentence. Counsel testified that he did not have any money to hire an investigator, but he used his two law clerks to take pictures of the apartment to determine whether the officers had broken the door to gain entry to the apartment.

Ineffective Assistance of Counsel / Involuntary Guilty Plea

The Applicant alleges that he received ineffective assistance of counsel and that his guilty plea was not freely and voluntarily entered. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. S.C. R. Civ. P. Rule 71.1(e); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged

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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." Id. at 442, 334 S.E.2d at 814 (quoting Strickland v. Washington, 466 U.S. 668, 686, 104 S.Ct. 2052, 2064 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Strickland, 466 U.S. at 687-90, 104 S.Ct. at 2064-66. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. The applicant must overcome this presumption in order to receive relief. Id.; Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

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

In regards to a claim of ineffective assistance of counsel on a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct.

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366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining post conviction relief issues relating to guilty pleas, the court shall "consider the entire record, including the transcript of the guilty plea, and the evidence presented at the PCR hearing." Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 650 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the voluntary and intelligent character of a plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe, 345 S.C. at 20, 546 S.E.2d at 419.

This Court finds that counsel's testimony is credible. This Court finds that counsel is a trial practitioner who has extensive experience in the trial of serious offenses. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges, what the State was required to prove, Applicant's constitutional rights, Applicant's version of the facts, and Applicant's possible defenses or lack thereof. (Tr. 3:14-19; 6:2-7:2.) This Court finds that the record reflects that Applicant's plea was entered freely, voluntarily, knowingly, and intelligently. (Tr. 5:13-19; 7:3-7; 7:21-8:1; 8:9-21; 17:8-10.) Applicant acknowledged that he understood the nature of the charges, the enhancement of the charges, the possible punishments, and his Constitutional rights, including the right to a jury trial. (Tr. 3:8-5:8; 7:8-20.) Applicant told the plea court that no one threatened him or promised him anything to plead guilty. (Tr. 7:3-7.) He indicated that he was satisfied with his attorney and did not need any more time to speak with him. (Tr. 5:20-6:1; 6:25-7:2; 8:2-7.) Applicant also admitted guilt at the hearing. (Tr. 5:9-12.) He told the court that he

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understood the terms of the negotiated sentence and thanked the Court for accepting the negotiated plea. (Tr. 7:8-20; 15:15-16:9.) Additionally, Counsel for the Applicant offered mitigation on behalf of the Applicant. (Tr. 12:6-13:16.) This Court finds that Applicant understood the possible sentencing range for these offenses and the terms of the negotiated sentence. This Court finds that it was Applicant's decision to plead guilty and that his plea was entered freely, voluntarily, knowingly, and intelligently.

Regarding all of the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. See State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668, 104 S.Ct. at 2065; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant, gave accurate advice to the Applicant, conducted a proper investigation, had the Applicant's best interest in mind when he advised him to take the negotiated plea, and was thoroughly competent in his representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

This Court finds it immaterial whether or not counsel filed a motion to suppress. Counsel testified that he would have filed the motion or made the motion orally after jury selection so that jeopardy would attach. Here, counsel had a reasonable trial strategy in determining when to file the motion to suppress. Applicant had a choice between going to trial and making the suppression motion after jury selection or accepting the negotiated plea agreement. This Court finds that there is no indication that Applicant could have pled straight-up to second offenses. The Solicitor allowed the Applicant to either accept the negotiated plea agreement or be served

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with LWOP notice and proceed to trial.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions in his representation of the Applicant. The Applicant failed to show that counsel's performance was deficient. This Court also finds the Applicant has failed to prove the second prong of Strickland, specifically that he was prejudiced by plea counsel's performance. Applicant's complaints concerning counsel's performance are without merit and are 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, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate


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review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely served and filed.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice; and
2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 6th day of August, 2010.



Deadra L. Jefferson
Presiding Judge
9th Judicial Circuit

Char., South Carolina.

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STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	
)	
TRAVIS FORD,)	CASE NO. 2012-CP-10-02862
)	
PLAINTIFF,)	TRANSCRIPT OF RECORD
)	
VS.)	
)	
THE STATE OF SOUTH CAROLINA,)	
)	
DEFENDANT.)	
)	

July 22, 2015

Charleston, South Carolina

B E F O R E:

The Honorable Roger E. Henderson

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

William L. Runyon, Jr., Esquire
For Travis Ford

J. Rutledge Johnson, Esquire
For the State of South Carolina

I N D E X

HEARING -- 03

(PW) - DENOTES PLAINTIFF'S WITNESS

(DW) - DENOTES DEFENSE WITNESS

WITNESSES

(PW) Travis Ford:

Direct Examination by Mr. Runyon -- 04

Cross-Examination by Mr. Johnson -- 05

(DW) Molly Cherry:

Direct Examination by Mr. Johnson -- 06

Cross-Examination by Mr. Runyon -- 08

EXHIBITS - None Proffered

CERTIFICATION OF TRANSCRIPT -- 11

If you need an additional copy of this transcript or a sealed transcript or if opposing counsel requires a copy of the transcript, you should contact the court reporter.

Certification will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

1 MR. JOHNSON: May it please the court, Your Honor.
2 This is Travis Ford versus the State of South Carolina. It
3 is Case Number 2012-CP-10-2862.

4 Mr. Ford was indicted at the October 2008 term of the
5 Charleston County Grand Jury for trafficking cocaine and
6 possession with intent to distribute cocaine within
7 proximity of a school.

8 On July 10th, 2009, he pled guilty as indicted to the
9 proximity charge and to the lesser included offense of
10 trafficking second offense.

11 He was sentenced by the Honorable Roger M. Young, Sr.,
12 to confinement for a period of 16 years for trafficking
13 cocaine and 10 years proximity -- 10 years for the
14 proximity, to be served concurrently. He did not appeal
15 these convictions or sentences.

16 On October 29th, 2009, he filed his first PCR
17 application. The State filed its return January 25th, 2010.
18 An evidentiary hearing was convened here at the Charleston
19 County Courthouse on July 20th, 2010; and he was represented
20 by Ms. Molly Hughes Cherry. On August the 6th, 2010, the
21 Honorable Deadra L. Jefferson denied and dismissed this
22 application.

23 He filed this incident action on May the 1st, 2012,
24 only alleging that PCR counsel failed to file this appeal
25 pursuant to Austin versus State.

1 And the State filed its return and motion to dismiss
2 all claims except the Austin because there are statute of --
3 beyond the statute of limitations and the successive. We
4 filed that June the 5th, 2015. And he is represented here
5 today by Mr. Bill Runyon.

6 THE COURT: Okay. Mr. Runyon.

7 MR. RUNYON: Your Honor, we call Mr. Ford briefly.

8 THE COURT: All right. Come forward, Mr. Ford.

9 (WHEREUPON, the witness was duly sworn.)

10 THE CLERK: After you have a seat please state your
11 first and last name and spell your last name loudly and
12 clearly into the microphone.

13 THE WITNESS: Travis Ford, F-O-R-D.

14 **DIRECT EXAMINATION BY MR. RUNYON OF TRAVIS FORD:**

15 Q. Mr. Ford, you filed -- you filed a successive PCR did
16 you not, sir?

17 A. Yes, I did.

18 Q. And you won your Austin appeal?

19 A. Yes, sir.

20 Q. And was there an appeal filed from your initial PCR?

21 A. Yes, sir.

22 Q. And was there -- was there an Alford brief filed on
23 your behalf? Do you know?

24 A. I don't -- written -- no brief.

25 Q. Okay. But there is no brief as far as you know?

1 A. As far as I know.

2 Q. Okay. If your appeal was not delved you want an Austin
3 appeal at this point in time?

4 A. Yes, sir.

5 Q. Okay. And did you do anything -- did you talk to your
6 appellate counsel at the time or did you talk to PCR counsel
7 at the time about making the appeal?

8 A. Yes, sir.

9 Q. And when did you talk to her?

10 A. This was like the closing of the PCR ---

11 Q. Okay.

12 A. --- I told her I wanted to appeal the decisions.

13 Q. And when was that?

14 A. This was 2010 -- July 2010.

15 MR. RUNYON: All right. I have no further questions at
16 this time, Your Honor.

17 **CROSS-EXAMINATION BY MR. JOHNSON OF TRAVIS FORD:**

18 Q. Mr. Ford, did you ask, Ms. Hughes at the time, Ms.
19 Cherry now, like at the end of the testimony?

20 A. Yes, sir.

21 Q. Okay. Was it back in the jail cell or was it out here
22 in the courtroom?

23 A. It was right there. We were sitting by each other
24 where I was sitting just now.

25 Q. Okay. Just out here in the courtroom?

1 A. Right.

2 Q. Okay.

3 MR. JOHNSON: Thank you, Your Honor.

4 THE COURT: Anything else, Mr. Runyon?

5 MR. RUNYON: No, Your Honor.

6 THE COURT: You can step down.

7 Any other witnesses?

8 MR. RUNYON: No other witnesses, Your Honor.

9 MR. JOHNSON: We would call Ms. Cherry to the stand,
10 Your Honor.

11 (WHEREUPON, the witness was duly sworn.)

12 THE CLERK: After you have a seat please state your
13 first and last name and spell your last name loudly and
14 clearly into the microphone.

15 THE WITNESS: Molly Cherry, C-H-E-R-R-Y.

16 **DIRECT EXAMINATION BY MR. JOHNSON OF MOLLY CHERRY:**

17 Q. Good morning, Ms. Cherry.

18 A. Good morning.

19 Q. Do you remember representing Mr. Ford in this case?

20 A. I do.

21 Q. In the prior PCR case?

22 A. Yes.

23 Q. And were you appointed to that case?

24 A. Yes.

25 Q. Do you remember going through an evidentiary hearing

1 with Mr. Ford?

2 A. Yes.

3 Q. And what was the outcome of that hearing?

4 A. I believe -- it was denied. The motion was denied.

5 Q. And did you ever receive an order of dismissal?

6 A. Yes.

7 Q. And around did you recall when thereafter of the
8 decision?

9 A. Not exactly. I don't think it was long after the
10 hearing. Perhaps within 30 days.

11 Q. And what did you do with that order of dismissal?

12 A. I sent it to Mr. Ford.

13 Q. And did he ever ask you to file an appeal in this case?

14 A. I -- frankly I do not remember him asking me to do
15 that. I am not saying that he didn't. I do not remember
16 him asking me.

17 Q. Did he ever ask you while sitting in this courtroom?

18 A. I do not remember him asking me. Again, I am not
19 saying that he didn't. I am saying I don't remember that.

20 Q. And are you aware of the language that is in that order
21 of dismissal at the very bottom paragraph?

22 A. I know there is language in the order saying there is a
23 time period for filing an appeal.

24 Q. And what is that time period?

25 A. I think it was 30 days.

1 Q. Did you ever get any letter or correspondence back from
2 him once you sent him the order of dismissal?

3 A. I really don't -- I don't think I got anything in
4 writing, but I am not saying that he didn't call me. I
5 don't -- I don't have a record of it. I've looked to see if
6 I had any notation of communication from him.

7 Q. Okay. Thank you.

8 A. But, again, that doesn't mean that he didn't.

9 Q. All right. Thank you, Mr. Cherry. Please answer any
10 questions Mr. Runyon may have.

11 A. Sure.

12 **CROSS-EXAMINATION BY MR. RUNYON OF MOLLY CHERRY:**

13 Q. Just briefly, Ms. Cherry. So as a practical matter you
14 sent Mr. Ford the order?

15 A. Yes.

16 Q. And in your letter -- in your transmittal letter did
17 you advise him of his appellate rights or anything of that
18 sort, if you recall?

19 A. I really don't -- I really don't recall.

20 Q. All right. So at the best you may have advised him of
21 his appellate rights and he elected not to appeal; that is
22 as best?

23 A. Yes. And I think that I did. But I am struggling with
24 him saying he asked me to appeal. Because I really don't
25 remember. He may have.

1 Q. And at the worst it is a breakdown of communication and
2 the appeal just wasn't taken?

3 A. Yes. I can say I did not file an appeal ---

4 Q. Thank you.

5 A. --- on his behalf.

6 MR. RUNYON: No further questions, Your Honor.

7 THE COURT: Anything else, Mr. Johnson?

8 MR. JOHNSON: No, Your Honor.

9 THE COURT: You can step down from the stand.

10 MR. JOHNSON: Nothing further from the State.

11 THE COURT: Okay. All right. Based on Ms. Cherry's
12 not being sure about whether the request was made or not I
13 am going to grant his request to file the Austin appeal.

14 MR. JOHNSON: Thank you, Your Honor.

15 MR. RUNYON: Thank you very much.

16 THE COURT: Okay.

17 Mr. Runyon, will do the order; or you, Mr. Johnson:

18 MR. RUNYON: I beg your pardon, Your Honor?

19 MR. JOHNSON: He has got to file it anyway, so I would
20 ask that Mr. Runyon does the order.

21 THE COURT: If you would do me the order, please, sir,
22 I would appreciate it.

23 MR. RUNYON: I will get you the order. I have got a
24 trial in federal court that is supposed to start Monday. We
25 have drawn a jury for it. So it may be about two weeks?

1 THE COURT: As long as you get it to me within 30 days.
2 MR. RUNYON: Thank you, Judge.
3 (WHEREUPON, the hearing concluded.)

(NOTE: Please contact the court reporter for additional copies or certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth 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 captioned case, relative to appeal, in the court for South Carolina, on July 22, 2015.

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


PHYLLIS NORTON, CVR

Date: August 1, 2017

Certified Transcript Provided For: SCCID
Certification Reference #080117

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

TRAVIS FORD #285740)

Applicant,)

v.)

STATE OF SOUTH CAROLINA)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Case No.: 2012-CP-10-2862

FILED
2017 MAY 24 AM 10:29
JULIE J. ARMSTRONG
CLERK OF COURT

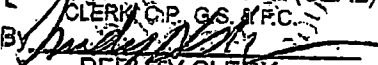
ORDER GRANTING AUSTIN REVIEW

This matter came before the Court on the 22nd day of July 2015 for a hearing on applicant's application for Post Conviction Relief. The State was represented by J. Rutledge Johnson, Senior Assistant Deputy in the office of the Attorney General. The Defendant was represented by William L. Runyon, Jr. of the Charleston Bar by appointment. The applicant sought relief on several grounds. On all grounds, saving one, the applicant sought relief on what were essentially "successive" post conviction applications. These could not be reviewed and the State was entitled to have that issue decided in its favor. See *Land v. State* 262 S.E.2d 735 (1980); *Alice v. State* 409 S.E. 2d 392 (1991); §17-22-10 to 160 Code of Laws of S.C. ann. In addition the applicant was barred in this matter by the Statute of Limitations. *Peloquin v. State* 469 S.E. 2d 606 (1996). It appears from the record that the only argument available to this applicant was that he was entitled to relief as his prior post conviction relief counsel failed to file the appeal by his prior post conviction denial. *Austin v. State* 409 S.E. 2d 395 (1991).

All sides agreed that there was no appeal from this applicant's petition in Case Number 2009-CP-10-6837. The Court had the benefit in this case of the Record and prior counsel's testimony. This Court finds as a matter of fact and law that there was no appeal in the said case and that an appeal review in Case Number 2009-CP-10-6437 is warranted and same is so ordered pursuant to *Austin v. State* 409 S.E. 2d 395 (1991).

ORDERED this 16th day of May, 20 17 at Charleston, Charleston
South Carolina.


Roger E. Henderson
Circuit Court Judge

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK CP, GS, JFC
BY 
DEPUTY CLERK

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2 COUNTY OF CHARLESTON) CASE NO. 2012-CP-10-02862

3 TRAVIS FORD,)
4 Plaintiff,) Transcript of Record
5 vs.)
6 THE STATE OF SOUTH) Date: March 21, 2018
7 CAROLINA,)
8 Defendant.)

9 * * * * *

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B E F O R E:

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The Honorable Deadre Jefferson

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Denise J. Lauder, RPR

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Ninth Judicial Circuit

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A P P E A R A N C E S

REPRESENTING THE PLAINTIFF:

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Deputy Chief Appellate Defender

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INDEX

Page No.

Proceedings.....	4
Reporter's Certificate.....	26

INDEX OF EXHIBITS

State's Exhibit No. 1, Affidavit.....	4
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1 (The following proceedings were had
2 March 21, 2018, Charleston County Common Pleas
3 Court.)

4 (STATE'S EXH. 1, Affidavit, was marked
5 for identification.)

6 THE COURT: Travis Ford v the State of
7 South Carolina, 2009-CP-10-6837. This case was
8 originally heard July 20th, 2010, on a
9 post-conviction relief application. At that time,
10 I denied the application and instructed the
11 Attorney General's Office to provide the Court with
12 a proposed order within 20 days, that order having
13 been filed on July 20, 2010.

14 On August 10, 2010, I issued my order
15 of dismissal, and this arose from a guilty plea.
16 Ms. Cherry, that being Molly Hughes Cherry, was the
17 applicant's attorney on the post-conviction relief
18 action. Plea counsel was Mark Pepper, Esquire.

19 And, again, that hearing was heard
20 July 10th of 2010. I issued a nine-page order
21 denying the relief making specific finds of facts
22 and issues of law.

23 As we have a new attorney general, they
24 probably haven't had any experience with me yet on
25 PCRs. Even though I asked them to submit proposed

1 orders, I generally rewrite them. No -- not
2 casting aspersions, but I'm very specific in fact
3 finding and I never like to tell the court to
4 wonder what I was thinking. I tell them. So that
5 order wouldn't have been signed as it was
6 submitted, but it would have revisions made to it.

7 Subsequently on May 24 of 2017, there
8 was an order signed by Judge Henderson granting an
9 Austin review. And that order indicates that on
10 July 22 of 2015, a hearing on the applicant's
11 application for post-conviction relief. At that
12 time the State was represented by Rutledge Johnson.
13 The Defendant was represented by Mr. Runyon, and he
14 sought certain relief due to an appeal not having
15 been filed.

16 And as a result of an agreement -- and
17 it says in the order that the Court had the benefit
18 in this case of the record and prior counsel's
19 testimony. And the Court found that there was no
20 appeal filed and, therefore, it warranted an Austin
21 review.

22 There was a return and motion to
23 dismiss all claims except the Austin review that
24 was filed June 8th of 2015; and May 1, 2012, is
25 when the additional PCR was filed.

1 The applicant in this case was indicted
2 in October of 2008 for trafficking cocaine,
3 2008-GS-10-7516, and possession with the intent to
4 distribute cocaine within proximity of a school,
5 2008-GS-10-7517.

6 On July 10th of 2009, he pled guilty as
7 indicted to the proximity charge and to a lesser
8 included offense of trafficking cocaine, second
9 offense. There was a negotiated plea which was
10 entered, and Judge Young sentenced him to a period
11 of confinement of 16 years for the trafficking and
12 10 years for the proximity to run concurrent, and
13 that -- that plea was not -- there was no appeal
14 filed as a result of that plea.

15 I subsequently received correspondence
16 from appellate defense indicating that there was a
17 November 14, 2017, order from the Supreme Court
18 remanding the case to the Court for a
19 reconstruction of a PCR hearing as a result of the
20 belated appeal, which was granted to him pursuant
21 to Austin, and that there was no transcript
22 available. And I assume because this was from
23 2010.

24 Court reporters are only required to
25 keep their records for seven years, and it would

1 long have been disposed of if it hadn't -- been if
2 the plea transcript had not been requested.

3 And as the PCR was heard in 2010 --
4 well, the plea transcript clearly would have been
5 available, so I would have used that as part of the
6 original PCR, but the PCR transcript happened in
7 2010, and if not requested within seven years,
8 would have been destroyed.

9 The appeal was held in abeyance until
10 such time as the record of the evidentiary hearing
11 on the first PCR can be recreated. And this has
12 been our first opportunity to schedule the matter
13 due to the -- whenever the Court was available, the
14 State had PCRs, and whenever it -- this is the
15 first opportunity that we've had to schedule the
16 matter after making multiple attempts to schedule
17 it previously.

18 And appearing on behalf of the State --
19 if you-all could identify yourselves, please?

20 MS. CLEVELAND: Rasheeda Cleveland.

21 MS. JAMESON: Megan Jameson sitting
22 second chair.

23 THE COURT: Could you spell your last
24 name, Ms. Jameson?

25 MS. JAMESON: J-A-M-E-S-O-N.

1 THE COURT: Okay. I wanted to make
2 sure I got it right.

3 And Ms. Cherry is present as Mr. Ford's
4 original PCR counsel; Mr. Pepper is here as his
5 original plea counsel; Ms. Hale is here as his
6 appellate counsel. Carter, I'm sorry.

7 MS. CARTER: Wanda Carter.

8 THE COURT: Fortuitously, I keep
9 meticulous notes of every hearing which includes
10 all of the witnesses who testified in the basically
11 the -- to some extent the full extent of their
12 testimony. If you will bear with me one moment.

13 And I also keep a record of the
14 specifics because I -- on PCRs, I rule right after.
15 Evidentiary-wise if I can, I rule right after I've
16 heard the PCR, and it appears that I did in this
17 case. And I have the notes regarding the findings
18 and the page and line from the transcript from
19 which I would have made those findings of fact and
20 conclusions of law.

21 Now, so I guess I would ask of the
22 State and of Ms. Cherry and Ms. Hale, how is it
23 that you want to proceed in recreating the record?
24 Because the case law says it can be done in several
25 different ways, and I have done it several

1 different ways.

2 According to the case law you can use
3 affidavits from the court reporter, counsel, you
4 can do it by stipulation, and you can use whatever
5 portions of transcripts are available, if any. So
6 how do you want to proceed.

7 MS. CLEVELAND: Your Honor, we would
8 like to proceed by stipulation of your notes and,
9 also, we would like to introduce an affidavit from
10 former PCR AG Matt Friedman, who was not available
11 because he now lives in Virginia. We have provided
12 Ms. Carter with a copy of the affidavit, and she
13 has consented to that coming in.

14 THE COURT: Okay. We will mark that No
15 1.

16 MS. CLEVELAND: We pre-marked that with
17 the court reporter.

18 THE COURT: Without objection.

19 MS. CARTER: No objection.

20 THE COURT: That will be State's 1.
21 Now, what is the applicant's
22 preference? How do you want to reconstruct the
23 record?

24 MS. CHERRY: I'm sorry?

25 THE COURT: I said, what is your

1 preference in terms of reconstructing the record?

2 MS. CARTER: A combination or
3 stipulation. It's -- I've done these before either
4 way. So it's -- either way is fine.

5 THE COURT: Can you work out a
6 stipulation as to what -- I can tell you what my
7 notes reflect happened.

8 MS. CLEVELAND: Yes, ma'am; that would
9 be great.

10 THE COURT: Do you want to do that
11 first and we can see where we go from there?

12 MS. CLEVELAND: That's fine, Your
13 Honor.

14 THE COURT: Okay. It seems there were
15 several bases for the post-conviction relief
16 application. My notes reflect that the highlights
17 of the claim were that there was no basis -- well,
18 that he objected that there was not a request for a
19 suppression hearing prior to his entering a guilty
20 plea.

21 My notes reflect that based on the
22 testimony there was no basis for a suppression
23 motion because the issue was not actual -- well, it
24 was actual and constructive possession, and that in
25 addition to that the officer had consent to enter

1 the residence without a warrant because there was
2 exigent circumstances.

3 Another basis was the preliminary
4 hearing or lack of a request of one, and based on
5 counsel's testimony, it really would not have made
6 a difference in terms of the status of the case.
7 There was also an objection regarding the solicitor
8 not making a more beneficial offer to the
9 applicant.

10 My notes reflect that based on the
11 testimony that any offers were within the
12 solicitor's prerogative, and that at that time the
13 solicitor indicated that he would not have made a
14 more beneficial offer, and that any offers that the
15 applicant indicated he thought were viable,
16 pursuant to counsel's testimony, those were never
17 on the table.

18 And that the second -- the offers for
19 the second only came up in conjunction with the
20 16 years, and that there was no basis in the record
21 for a straight-up plea regarding the second
22 offenses.

23 My records also reflect that Ms. Cherry
24 was appointed on 11/12 of '09. That, let's see,
25 10/29/09 -- let's see here. Oh, the application

1 was filed and the return was filed 1/27/10. So
2 we've already covered that. He also made a motion
3 for continuance which the Court denied.

4 He indicated that he wanted to hire
5 private counsel, and the Court found that he'd had
6 more than adequate time to obtain counsel since
7 October of 2009, that he had been -- that he had
8 been dilatory in making those inquiries, and that
9 Ms. Cherry was prepared and there was no basis for
10 a continuance, and she had had more than adequate
11 opportunity to have met with him and gone over the
12 viability of his application.

13 Also, it indicates that one of the
14 bases or one of the benefits to him taking the plea
15 was that he had two strikes going into a plea, and
16 a third strike could have made him LWOP eligible.

17 My notes reflected that from the guilty
18 transcript that I made the following findings:
19 That he was well aware of the enhancement; he was
20 well aware of him having to serve time at
21 85 percent, and those were at pages 3, lines 14
22 through 25; and page 4, lines 1 through 15.

23 That he was well advised of his
24 constitutional rights and his right to a jury
25 trial, which were found at page 4, line 16 through

1 25; and page 5, lines 1 through 8. And he was, in
2 fact, well aware that he was pleading guilty and
3 consequences of pleading guilty, and that was at
4 page 5, lines 9 through 12.

5 That he was queried as to whether he
6 was under the influence of drugs or alcohol,
7 page 5, lines 13 through 15; and answered in the
8 negative regarding his state of mind at page 5,
9 lines 16 through 19. That he was satisfied with
10 his counsel and he did not need more time to speak
11 with counsel, that's at page 5, lines 20 through
12 23; page 5, lines 24 through 25; that he was
13 satisfied with counsel at page 6, line 25 through
14 page 7, lines 1 through 2.

15 In his own words, that he had no beef
16 with his attorney, page 8, lines 2 through 7, and
17 page 6, lines 1 through 25. That he had -- I had a
18 note here, didn't want to tell the story, et
19 cetera, so I assume that's explanatory from the
20 plea transcript and also page 6, line 22.

21 That he was entering the plea freely
22 and voluntarily at page 7, lines 3 through 7; and
23 page 7, line 21 through 25; and page 8, through
24 line 1.

25 That he knew it was at 85 percent at

1 page 7, lines 8 through 19, and regarding his
2 educational level at page 8, lines 9 through 21.
3 Regarding covering any pretime jail he was found
4 pre-detention time at page 8, lines 23 through 25;
5 and page 9, lines 1 through 2. And, again,
6 querying him about his attorney and his
7 satisfaction at page 9, lines 3 through 11.

8 The facts were allocuted at page 9,
9 lines 15 through 25, and I'm not going to go
10 through all of that because I assume the plea
11 transcript goes through all of that regarding what
12 took place.

13 Regarding the weight of the drugs at
14 page 11, and page 11 of his LWOP eligibility, lines
15 24 through 25. Mitigation was presented regarding
16 his plea at page 12, lines 6 through 25; and
17 page 13, lines 1 through 16.

18 And he also thanked everyone involved
19 for the plea at page 15, lines 15 through 25; and
20 page 16, line 1 through 9.

21 My notes reflect that Mr. Pepper
22 testified that he was counsel for the Defendant,
23 that he had been admitted to the bar in November of
24 2005, that he did criminal work 75 to 80 percent,
25 that he had been retained by the applicant from

1 February through July and he had met with him on
2 four times; that he had discussed with him the
3 elements thoroughly as well as his client's version
4 of the facts defenses, and he used the potential of
5 the pretrial to work out negotiations on behalf of
6 the defendant.

7 He also fully explained to him the
8 consequence of taking the plea versus trying the
9 case and said his client was open to plea to a
10 second, but those were never on the table. The
11 only deal was a negotiated plea of 16 years or
12 trial.

13 He said that he fully explained to him
14 the consequence of the plea, that he fully
15 explained to him the negotiated nature of the plea,
16 that the Defendant's decision to plead guilty --
17 that he really didn't want to plead guilty, but his
18 client also felt it was in his best interest as
19 well as him perceiving it was in his client's best
20 interest to plea considering the potential exposure
21 being tried as indicted.

22 That the case was on the trial docket,
23 that he was prepared for trial, that he did all
24 that he could, but his client -- Mr. Pepper's
25 words, not mine -- was screwed no matter what. He

1 did not hire a PI, that his client did not have the
2 money to do it.

3 Let's see here. He had two Charleston
4 School of Law students who were 2Ls who were
5 working with him in an intern capacity, and they
6 went to the home to take pictures, the doorjamb,
7 and et cetera. It was previously broken. They did
8 that on July 1st prior to trial.

9 He said that the case came down to the
10 witness, Coolie Jenkins -- and I may have spelled
11 that phonetically -- that he also spoke with him in
12 person and at his office on July 1st, and that he
13 was emphatic that he was not going to change his
14 story and that he was not lying, and that he was
15 not getting in trouble.

16 That he was an eyewitness -- he was an
17 eye witness to the event, and that his testimony
18 would have been -- that he's not going to lie, that
19 he saw him bring drugs in his coat and the way that
20 they were packaged as well as smoking a blunt.

21 He did not pressure his client, was not
22 highly -- he didn't pressure him; he highly advised
23 him to take the negotiated plea. He advised his
24 client of the sentencing range. He believes that
25 -- that direct question was asked. Did you inform

1 your client of the sentencing range? He said, I
2 probably did. Doesn't specifically remember verbal
3 or not.

4 May 11th he sent a letter current
5 offer, and at that time the current offer was
6 20 years concurrent. That the solicitor was very
7 poignant in reminding him that he intended to serve
8 and seek LWOP.

9 On cross-examination he testified
10 regarding the bond hearing, that it had to be reset
11 because the client was not transported and that he
12 could have refiled it -- let's see. He was a
13 hands-on client. He did not file a motion to
14 suppress, because he did not want to -- he didn't
15 want jeopardy to attach prior to arguing the
16 motion. He said he had it in his file, but had not
17 filed it. He would have filed it after a jury was
18 sworn.

19 He said that he did not interview the
20 applicant's girlfriend. He said on 7/1/09 he met
21 the Defendant face to face. He met with the family
22 and discussed the plea offer and the facts on
23 7/6/09; and also that the lawsuit students that
24 were involved, it appears that they had some
25 interaction with interviewing witnesses and they

1 told the Defendant about the witness, and that he
2 knew about that prior to the plea, and that the
3 clerk showed him the pictures they had taken, and
4 that he felt comfortable that they had done what he
5 instructed them to do.

6 That he did not need additional time to
7 talk to the Defendant before the plea so he did not
8 inquire of the Court to ask of that.

9 He says he did not discuss, and I have
10 a quote, an open plea because it was not on the
11 table. It was either 16 negotiated or LWOP service
12 and trial. He said the solicitor did not want to
13 negotiate anything. He started at 20 years and
14 that once his mind was made up, that was it and
15 that he had to be on him to get the 16 years.

16 He denies telling the Defendant or
17 coercing him that he told him he had to take the
18 16 years or the judge would give him more time. He
19 says that he did fully explain to him the
20 implications of receiving LWOP notice. My notes
21 there was no redirect and no rebuttal.

22 And I believe my order accurately
23 reflects what the applicant's allegations were. My
24 notes reflect that the applicant testified that he
25 met with counsel three times, that he did not

1 believe his lawyer was prepared. He testified that
2 his lawyer was emphatic and told him he would not
3 win a suppression hearing on the drugs.

4 He also testified that he asked his
5 lawyer to delay the hearing and also regarding the
6 expiration of the plea offer.

7 He also alleged that his lawyer did not
8 fully investigate all of his possible defenses, and
9 that he thought that he could have done an open
10 plea rather than a negotiated plea. I assumed by
11 his testimony regarding an open plea he meant a
12 straight-up plea.

13 He said he didn't have adequate time to
14 discuss the facts and circumstances of a plea or
15 the implications of a plea with his attorney. He
16 denied that he or his family members had ever met
17 with counsel.

18 And those are the extent of my notes
19 other than the arguments that were made by counsel
20 at the conclusion of the hearing.

21 Applicant's counsel was simply
22 reiterated the arguments that were in the order
23 regarding the basis of the claim and the State's
24 opposition regarding -- within the bound of the
25 testimony that was presented that was not supported

1 by the testimony of the applicant.

2 And I believe within the scope of my
3 order I did not find the applicant's testimony
4 credible. I did find Mr. Pepper's testimony
5 credible, but I always in terms of a plea, what I
6 find most credible and dispositive is what
7 contemporaneously took place at the time. So I
8 would have given most weight to the plea
9 transcript.

10 Okay. Anything else we need to
11 supplement the record with? Because I acknowledge
12 I'm not perfect and I may have missed something.

13 MS. CARTER: Beg the Court's indulgence
14 for one moment to speak with --

15 THE COURT: Sure. Go right ahead.

16 MS. CHERRY: Your Honor, if I may.

17 THE COURT: Sure.

18 MS. CHERRY: Molly Cherry, and as Your
19 Honor noted, I was counsel for Mr. Ford on his PCR
20 application. He filed the application himself and
21 then I was subsequently appointed. Just to a
22 couple of supplements, Your Honor, to what the
23 Court has read from Your Honor's notes. I think
24 the notes are consistent with my recollection, Your
25 Honor.

1 I was able to find my outline of
2 questions that I had asked Mr. Ford.

3 THE COURT: Okay. Do you want to
4 supplement the record with those?

5 MS. CHERRY: Well, Your Honor, they're
6 just my questions and they are consistent with the
7 comments that you made, but there were two points
8 that I wanted to add --

9 THE COURT: Sure.

10 MS. CHERRY: -- for the record. That
11 Mr. Ford did express his concerns that he had told
12 Mr. Pepper about his concerns with the fact that
13 the police did not actually catch him with any
14 drugs.

15 That point, Your Honor, goes to the
16 concerns over a potential suppression hearing.
17 And, Your Honor, I actually submitted a memorandum
18 in support of the PCR application that outlined
19 those arguments.

20 THE COURT: It would be in the file and
21 part of the record.

22 MS. CHERRY: Yes, Your Honor, and that
23 testimony, if you will, went to that issue in terms
24 of the suppression piece.

25 THE COURT: And I glossed over it, but

1 the whole reason he didn't have a suppression
2 hearing, according to my notes, he didn't have to
3 catch him with the drugs. It was a constructive
4 argument versus an actual argument of possession;
5 and they had an eyewitness, as well as what they
6 found in the residence, compounded with the fact
7 that he had arguable constructive possession,
8 control over the residence and consent to search.

9 And the other sort of weight and,
10 again, I glossed over it, was, that Mr. Pepper made,
11 after going over with the client, a judgment call
12 as to whether you really want to go forward.

13 In Charleston, of course, you-all don't
14 know this, they don't do suppression hearings
15 before you enter a plea. You run the risk. Once
16 you decide that -- you're either going to plea or
17 have a trial. If you're going to have a trial, you
18 have the suppression.

19 And if you had -- it's sort of a
20 catch-22 situation. If he decided to have a trial,
21 they were going to serve him with LWOP notice. So
22 he had to sort of make a decision about what he was
23 going to do, but I sort of, in summary fashion,
24 covered that. So I agree that he did raise those
25 things. You may continue.

1 MS. CHERRY: Thank you, Your Honor.
2 That was it. I wanted to make sure that Mr. Ford's
3 testimony in terms of the denial for possession,
4 that there was no evidence that he had actual
5 possession. And those concerns, Your Honor, are
6 outlined in the memorandum in support of the PCR
7 application.

8 I just wanted to highlight that
9 Mr. Ford's testimony was consistent and supported
10 the legal argument that had been set forth, Your
11 Honor.

12 That was the only addition, if you
13 will, that I had in terms of what I heard.

14 THE COURT: And it was a long time ago.
15 And, like I said -- that's why I asked you-all
16 because I'm not infallible.

17 MS. CHERRY: Yes, Your Honor.

18 THE COURT: And I don't have any -- I
19 would be -- as I read things, things come back to
20 me. This was in 2010; that was close to eight
21 years ago.

22 MS. CHERRY: Yes. I'm surprised that I
23 still had my outline.

24 THE COURT: Which in some instances can
25 be a good thing. At least, that's what I tell my

1 secretary.

2 Does the State want to add anything?

3 MS. CLEVELAND: Yes, ma'am. We would
4 just add that the State would submit based on your
5 stipulation of your notes, as well as the affidavit
6 of Mr. Matt Friedman, that the record is now
7 sufficient to allow the appellate court to conduct
8 a meaningful appellate review of Mr. Ford's case,
9 and we would ask that the Court would find that the
10 record be reconstructed.

11 THE COURT: And I see Mr. Pepper has
12 been here, and he's been very kind to give us his
13 time when he could be at his office trying to make
14 a living.

15 Mr. Pepper, is what the Court remembers
16 accurate of your testimony?

17 MR. PEPPER: Yes, ma'am.

18 THE COURT: Do you feel that you need
19 to supplement the record with anything?

20 MR. PEPPER: No, ma'am.

21 THE COURT: And I assume that you are
22 in agreement with the State, that the record is now
23 sufficient -- sufficiently preserved for appellate
24 review?

25 MS. CARTER: Yes, Your Honor.

1 THE COURT: Well, I thank you-all for
2 your time and I thank you for your patience in us
3 getting this scheduled. I know that everybody has
4 two tons of work and half the amount of time to get
5 it done. So I appreciate you-all dealing with
6 Interstate 26 which is a whole other discussion.
7 So I appreciate you taking the time today to come
8 to Charleston.

9 I don't think I need to do an order. I
10 think the transcript would be enough.

11 MS. CLEVELAND: That will be enough.

12 THE COURT: Perfect. You-all have a
13 good day.

14 (These proceedings were concluded at
15 11:20 a.m.)

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CERTIFICATE OF REPORTER

I, Carol Denise Lauder, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 21st day of May, 2018 at Charleston, Charleston County, South Carolina.

S/Denise Lauder *Denise Lauder*
Carol Denise Lauder
Registered Professional Reporter, CP
My Commission expires February 27, 2028

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STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Honorable Deadra L. Jefferson, Circuit Court Judge

Appellate Case No. 2017-001299

TRAVIS FORD, #285740,

Petitioner,

v.

STATE OF SOUTH CAROLINA,

Respondent.

AFFIDAVIT OF TESTIMONY

I, the undersigned Matthew J. Friedman, do hereby certify and testify to the following:

1. I am currently an inactive member in good standing of the South Carolina Bar.
2. I am currently an active member in good standing of the Virginia Bar, and employed as an attorney at Elder & Watkins, PC in Farmville, VA.
3. Prior to relocating to Virginia, I served as an Assistant Attorney General at the South Carolina Attorney General's Office in the Post-Conviction Relief Section, and handled all post-conviction relief matters arising out of the Ninth Judicial Circuit (Charleston and Berkeley Counties).
4. Petitioner was present at the hearing and represented by counsel Molly Hughes Cherry. Petitioner testified at the hearing, as well as his trial counsel, Mark Peper.

5. I represented the State at the post-conviction relief hearing of the above referenced Petitioner held on July 10, 2010 at the Charleston County Courthouse before the Honorable Deadra L. Jefferson.
6. During the hearing, I took, as was my normal course of conduct at any PCR hearing handwriting notes of the relevant testimony that was provided during the hearing. A copy of those notes totaling 9 pages is attached as Exhibit A.
7. I certify that the attached notes (Exhibit A-totaling 9 pages) are notes that I personally transcribed during this evidentiary hearing, and have not been altered or changed in any way.
8. Following the evidentiary hearing, Judge Jefferson signed an Order of Dismissal denying the application with prejudice, attached as Exhibit B.
9. I have had an opportunity to review the Order of Dismissal from Petitioner's first post-conviction relief action, and I certify that the Order of Dismissal accurately reflects the testimony presented at the hearing.

I affirm that the foregoing is true to the best of my knowledge and recollection.



 Matthew J. Friedman, Esquire

SWORN to and subscribed before me this 15th
day of March, 2018.

Christy N. Wharam

 Notary Public

My Commission Expires: 1/31/2019

Christy G. Wharam
 Commonwealth of Virginia
 Notary Public
 Commission No. 272518
 My Commission Expires 1/31/2019

Exhibit A

Trans Ford

- Δ filed pro se motion to relieve counsel
- motion for continuance
- July - app filed in Oct 2009 - 8 1/2 months to retain atty
- continuance - denied

Insufficient meetings

- Δ - met w/ atty about 3 times at the most *
- atty is prepared to try case *
- plea agreement → had met 1 prior time w/ atty
- atty should have explained trial process
- is understand what he was agreeing to
- pressured to take plea *
- told atty concerns that police is catch w/ drugs
- discussed who actually possessed the drugs
 - said it wasn't his drugs
 - atty said it would be hard b/c they had signed statements that it was Δ's
- discussions about suppression → told Δ he is w/ it
- asked atty to delay hearing *
- sol said if Δ is plea, he'd be on trial next week *
- atty said he could like PE *
- why in apt? meeting to consult about sex
- no his drugs, not in his possession
- prelim hearing - is have one
- never a hearing or motion to supo

- atty & investigate all poss defenses
- non could have taken open plea
- & have sufficient time to discuss w/ atty
- atty's argument was ineffective
- coerced to plea

- Reper
- had bond heavily set → p transport Δ
 - atty withdraw motion so he could refile
 - continued it
 - & recall if ever back on docket
 - & file mot to supp
 - wait until after swear jury to attach jeopardy
 - & file any brief or memos in support of mot to supp
 - & interview Jenkins' girlfriend
 - meetings w/ Δ after spoke w/ Jenkins
 - met w/ Jenkins 9 days before GP
 - law clerk told Δ that Jenkins & charging story
 - met w/ Δ's firm on July 6
 - met w/ Δ prior to plea, week of plea
 - clerk showed Δ photos
 - & ask sol for additional time
 - & need additional time
 - discussions w/ Δ about option of open plea
 - & think so
 - & on table
 - sol & want to neg → wanted 20, plea 16 → no open plea

- prior to hearing, I felt D he would get more than 16 at final
- but told him he would be served w/ CROP

Kolle case

Jde

- officer at apt complex
- p. 9 facts - officer had befriended Jenkins & checked on him (Jenkins was pro address)
- Jenkins consented to entry
- not factually same as Kolle case
 - Kolle - pol received call about noise complaint
 - forced entry
 - pol off knocked + announced - no answer
 - looked in window
 - off called for backup - they announced + forced entry
- here, consent to enter + drugs were in plain sight
- not material whether atty filed motion
 - would have filed or made orally after jury selection
- def atty & show hand to sol
- needs trial strategy
- Repr - credible
- Sol (Hudson) - made up mind - 16 yrs vs CROP
- @ no indication of SU plan to 2nd officers

July
Cont.

- Paper used any deficiencies as leverage to set offer from 20 to 16
- Strategy - judgment of counsel
- hindsight is 20/20
- plea offers - Sol's discretion
- transcript is dispositive
- GP of work over enhancements / strikes
- Law requires Ct to explain min/max sent even if neg plea
- Δ said he was guilty
- Satisfied w/ counsel, Δ need more time, no best w/lawyer
- renewed evid, St's burden, right to jury trial
- 15-16 - Δ addresses Ct - flanks of for acceptly neg plea
- denied - idea

Ford

- 1) failed to meet burden
- 2) rec reflects plea was entered freely + vol

① IAC - insufficient meetings

② & properly investigate potential 4th Am Search + Seizure + & adequately advise about conse supp

③ & inform of sent range - prob did
- sent Δ letter - May 11 - commit after 20 yrs to avoid mandatory min of 25 yrs 3rd off.

- Δ ask you to delay plea?

- possibility that Sol would take way sent off table if delayed plea? (or file out to supp)

- have pre-trial motion to supp ready to go

- open plea - would you have advised Δ to pursue an open plea?

→ option?

→ send of LWOP notice?

- prepared for trial?

① motion to supp chgs - atty discussed w/Δ

- ^{Sol would take} neg plea ~~comes~~ off the table + serve Δ w/ LWOP notice if Δ accept plea

- counsel was prepared for trial

- & have strong case if lost pre-trial motions

- Δ elected to plead guilty rather than risk LWOP at trial + accept 16 yrs

neg
plea
sentence

Travis Ford

2.2.12 ⊕ told of you understood the nature of the charges & the possible sentences you could receive (5-30)

(3.2.14 - strike offences)

4.2.16 ⊕ understood const rights inc right to jury trial

5.2.9 ⊕ told of you were, in fact, guilty of these offences

(5.2.13 - no days /alc)

5.2.20 ⊕ satisfied w/ atty → didn't need more time w/ him ✓

(6.2.5 ⊕ reviewed end w/ atty)

7.2.3 ⊕ no one threatened you & promised you anything

(7.2.8 - 85%)

7.2.8 ⊕ told of you understood the terms of the neg sent ✓

- open guilty plea - to know option

Red - Mark Peper

WITNESS QUESTIONS - GUILTY PLEA

- How long have you been practicing law?

2005

- How much of that time has been in criminal law?

75-80%

- Did you have experience in trial issues and law relating to (serious offenses) _____
prior to this case?

- Do you recall when you were appointed/retained?

- tried to get retained in winter of ^{2 mos. before plea}

- got \$ until March & April 2009

- How many times did you meet with the Applicant?

he is number of office → at least 4 times
between Feb + Dec

- Did you discuss the elements of the charges and what the State was required to prove? ✓

- Did you discuss the Applicant's version of the facts? ✓

- Did you discuss possible defenses with the Applicant? ✓

to have my affirmative defenses

- bailed down to courtesy of to Supp docs

- Did you inform the Applicant of his constitutional rights?

pre-trial motion
- if lost trial
would start
immediately
- if we wanted to have notes
heard, after jury sworn &
LWOP send

- Did he ever tell you that he did not understand something?

- Would you briefly characterize the State's evidence in this case?

- had decent chance at not to supp but if lost, LWOP trial
w/no case at all

- pressure Δ → harshly advised

plea offer - at Nov 20

- covered w/ some validity to motions

- Did you enter into plea negotiations on behalf of the Applicant? - sol came back w/ neg

- either take 16 or get notified for 16

lwop + put on trial docket

- What did the State offer?

- offer plea not on table & would have rec taking my

16 anyway

- Did you communicate the offer(s) with the Applicant?

- sol was adamant about serving lwop

note if Δ plead

- Did you inform Applicant of the consequences of the plea?

- Did you explain the differences between a straight-up plea, a recommendation, and a negotiated

sentence? f'd Δ ct's only options were to accept or reject

- Whose decision was it to plead guilty? Δ

- Did the Applicant ever indicate that he wanted to go to trial?

- trial would have started flat week or following week

- prepared for trial

- Δ like PI - no \$

- sent 2 summer law clerks to Mr. Jenkins apt

- they took pics

- case came down to testimony on Cooley Jenkins

-> got him into his office on July 1, 2009

-> discussed case - Jenkins said he is lie, drugs were Δ 's
-> saw Δ buy 4 drugs

PERSONAL INFORMATION

Name: Travis Ford SCDC #: 285740 Docket #: 09 CP-10-6837

Application Date: Oct 29, 2009 County: Chas PCR attorney: Molly Hughes Cherry

Plea / Trial Date: July 10, 2009 Judge: Young Attorney: Peper

Grounds:

① IAC - a) did not have D's best interest in mind b) gave erroneous advice
c) failed to do any pretrial investigation

② IAP

Facts (p. 9):

- low income housing complex, apt manager requested police assistance with people loitering -
selling drugs, officer had developed friendship with Clifton Jenkins, went to check on Jenkins &
saw Δ inside, 27.86g coc, 1.3g coc base, Jenkins said it all belonged to Δ

INDICTMENTS

<u>Term:</u>	<u>Indictment #:</u>	<u>Charge:</u>	<u>Conviction:</u>	<u>Sentence (SU, NEG, REC, CO, CS)</u>	<u>Max:</u>
Oct 08	-7516	traff coc ^{2nd} off	✓ traf coc - ^{LEO (10-23-09)} traff	16	5-30 (orig charge 25-30)
	-7517	AVD-COC prox	✓ AD	10	10

- eligible for LWOP (p. 11 & 24) (2 prior strikes)

- PR on same day

PRIOR RECORD

not listed in transcript (2 prior strikes)

Exhibit B

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
)
 Travis Ford, #285740,)
)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 2009-CP-10-6837

ORDER OF DISMISSAL

FILED
 2010 AUG 10 AM 9:25
 JULIE L. ANDERSON
 CLERK OF COURT

Presiding Judge:	Deadra L. Jefferson
Applicant's Attorney:	Molly Hughes Cherry, Esq.
Respondent's Attorney:	Matthew J. Friedman, Esq.
Plea Counsel:	Mark A. Peper, Esq.
Date of Hearing:	July 20, 2010
Court Reporter:	Anne Meyer

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed October 29, 2009. The Respondent made its Return on January 25, 2010. An evidentiary hearing into the matter was convened on July 20, 2010 at the Charleston County Courthouse.¹ The Applicant was present at the hearing and represented by Molly Hughes Cherry, Esquire. Matthew J. Friedman, Esquire, of the South Carolina Attorney General's Office represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Applicant's plea counsel,

¹ Counsel for the Applicant filed a Motion for Continuance on July 22, 2010 on the basis that the Applicant had expressed a desire to hire a different attorney. This Court heard the Motion for Continuance before the PCR hearing commenced. The Applicant filed his PCR Application on October 29, 2009 and Counsel for the Applicant was appointed on November 12, 2009. The State filed its Return on January 27, 2010. In regards to the Motion for Continuance, Counsel for the Applicant communicated to the Court that she was prepared for the hearing and ready to proceed. The Applicant filed his application ten months prior to this hearing and had more than adequate time to obtain alternate counsel if he desired to do so. However, at the time of the hearing, the Applicant had not hired alternate counsel and, therefore, the Court found that there was no basis for the request for a continuance and that the request for a continuance was simply a delay tactic. As such, the Court denied the Motion on the record.

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 [Handwritten signature]

Mark A. Peper, Esquire, also testified at the hearing. This Court had before it the records of the Charleston County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, the PCR application, the State's Return thereto, and Applicant's Memorandum in Support of Application for Post-Conviction Relief dated July 20, 2010.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the October 2008 term of the Charleston County Grand Jury for trafficking cocaine (2008-GS-10-7516) and possession with intent to distribute (PWID) cocaine within proximity of a school (2008-GS-10-7517). Mark A. Peper, Esquire, represented the Applicant. On July 10, 2009, the Applicant pled guilty as indicted to the proximity charge and to a lesser-included offense of trafficking cocaine – 2nd offense. Pursuant to a negotiated plea agreement, the Honorable Roger M. Young, Sr. sentenced him to confinement for sixteen (16) years for trafficking cocaine and ten (10) years for the proximity charge. The sentences were to run concurrently. The Applicant did not appeal the conviction or sentence.

ALLEGATIONS

The Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel in that counsel
 - a. Did not have Applicant's best interest in mind.
 - b. Gave erroneous advice.
 - c. Failed to do any pretrial investigation.
 - d. Did not properly consult with Applicant about his desire to plead guilty.
 - e. Did not properly investigate potential Fourth Amendment violation relating to Applicant's search and seizure and did not adequately advise Applicant that proceeding to a hearing presented a strong possibility of evidence suppression.

2 2009
MPC

- f. Did not properly advise Applicant of the sentencing range for his charges.
2. Involuntary guilty plea.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon his or her credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

The Applicant testified that he met with counsel about three times. He asserted that counsel was not prepared to try the case. Applicant testified that counsel advised him that he would not win a suppression hearing on the drugs because the police had several signed statements that indicated that the drugs belonged to the Applicant. He testified that he asked counsel to delay the hearing, but counsel told him the Solicitor would begin the trial of the case during the following week if the Applicant decided not to plead guilty on the scheduled day of the plea. Applicant asserted that counsel did not investigate all possible defenses. He also testified that he could have taken an open plea rather than a negotiated plea, but he did not have enough time to discuss his options with his attorney.

Plea counsel testified that he or a member of his office met with Applicant at least four times between February 2009 and July 2009. He asserted that he did not file a motion to suppress the drugs because he waits until after the jury is sworn to make motions so jeopardy will attach. Counsel testified that the case came down to the testimony of Cooley Jenkins, who owned the apartment where the drugs were found. Counsel testified that Mr. Jenkins had

3 3/29
ATG

previously stated that he saw the Applicant bring the drugs in the apartment and cut up cocaine lines. Counsel testified that he met with Mr. Jenkins nine days before the plea hearing and Mr. Jenkins indicated that he did not lie when he gave his previous statement and he would not change his statement. Counsel also testified that he spoke with Applicant's family before the plea. Additionally, counsel testified that his law clerks met with the Applicant, informed him that Mr. Jenkins would testify against him at trial, and showed him photos that had been taken at the apartment.

Counsel further testified that the Solicitor never offered the Applicant an open plea. Rather, the Solicitor offered a negotiated sentence of sixteen (16) years. Counsel testified that the Solicitor informed him that if the Applicant did not accept the negotiated plea, then the Solicitor would notice him for life without parole (LWOP) and put the case on the next trial docket. Counsel testified that he communicated this information to the Applicant. Counsel also testified that the Applicant did not have a strong case for trial, especially if the motion to suppress was denied. Counsel testified that he did not pressure Applicant to plead guilty, but he highly advised that Applicant accept sixteen (16) years rather than risk a LWOP sentence. Counsel testified that he did not have any money to hire an investigator, but he used his two law clerks to take pictures of the apartment to determine whether the officers had broken the door to gain entry to the apartment.

Ineffective Assistance of Counsel / Involuntary Guilty Plea

The Applicant alleges that he received ineffective assistance of counsel and that his guilty plea was not freely and voluntarily entered. In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. S.C. R. Civ. P. Rule 71.1(e); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged

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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." Id. at 442, 334 S.E.2d at 814 (quoting Strickland v. Washington, 466 U.S. 668, 686, 104 S.Ct. 2052, 2064 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Strickland, 466 U.S. at 687-90, 104 S.Ct. at 2064-66. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. The applicant must overcome this presumption in order to receive relief. Id.; Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

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

In regards to a claim of ineffective assistance of counsel on a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct.

5 5/19
2/19

366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining post conviction relief issues relating to guilty pleas, the court shall "consider the entire record, including the transcript of the guilty plea, and the evidence presented at the PCR hearing." Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 650 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)). When a defendant pleads guilty on the advice of counsel, the voluntary and intelligent character of a plea may only be attacked through a claim of ineffective assistance of counsel. Roscoe, 345 S.C. at 20, 546 S.E.2d at 419.

This Court finds that counsel's testimony is credible. This Court finds that counsel is a trial practitioner who has extensive experience in the trial of serious offenses. Counsel conferred with the Applicant on numerous occasions. During conferences with the Applicant, counsel discussed the pending charges, the elements of the charges, what the State was required to prove, Applicant's constitutional rights, Applicant's version of the facts, and Applicant's possible defenses or lack thereof. (Tr. 3:14-19; 6:2-7:2.) This Court finds that the record reflects that Applicant's plea was entered freely, voluntarily, knowingly, and intelligently. (Tr. 5:13-19; 7:3-7; 7:21-8:1; 8:9-21; 17:8-10.) Applicant acknowledged that he understood the nature of the charges, the enhancement of the charges, the possible punishments, and his Constitutional rights, including the right to a jury trial. (Tr. 3:8-5:8; 7:8-20.) Applicant told the plea court that no one threatened him or promised him anything to plead guilty. (Tr. 7:3-7.) He indicated that he was satisfied with his attorney and did not need any more time to speak with him. (Tr. 5:20-6:1; 6:25-7:2; 8:2-7.) Applicant also admitted guilt at the hearing. (Tr. 5:9-12.) He told the court that he

6. *6/2/9*
RSJ

understood the terms of the negotiated sentence and thanked the Court for accepting the negotiated plea. (Tr. 7:8-20; 15:15-16:9.) Additionally, Counsel for the Applicant offered mitigation on behalf of the Applicant. (Tr. 12:6-13:16.) This Court finds that Applicant understood the possible sentencing range for these offenses and the terms of the negotiated sentence. This Court finds that it was Applicant's decision to plead guilty and that his plea was entered freely, voluntarily, knowingly, and intelligently.

Regarding all of the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds that Applicant's attorney demonstrated the normal degree of skill, knowledge, professional judgment, and representation that are expected of an attorney who practices criminal law in South Carolina. See State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977); Strickland, 466 U.S. at 668, 104 S.Ct. at 2065; Butler, 286 S.C. 441, 334 S.E.2d 813. This Court further finds counsel adequately conferred with the Applicant, gave accurate advice to the Applicant, conducted a proper investigation, had the Applicant's best interest in mind when he advised him to take the negotiated plea, and was thoroughly competent in his representation. This Court finds that counsel's representation did not fall below an objective standard of reasonableness.

This Court finds it immaterial whether or not counsel filed a motion to suppress. Counsel testified that he would have filed the motion or made the motion orally after jury selection so that jeopardy would attach. Here, counsel had a reasonable trial strategy in determining when to file the motion to suppress. Applicant had a choice between going to trial and making the suppression motion after jury selection or accepting the negotiated plea agreement. This Court finds that there is no indication that Applicant could have pled straight-up to second offenses. The Solicitor allowed the Applicant to either accept the negotiated plea agreement or be served

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[Signature]

with LWOP notice and proceed to trial.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test, specifically that counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that counsel committed either errors or omissions in his representation of the Applicant. The Applicant failed to show that counsel's performance was deficient. This Court also finds the Applicant has failed to prove the second prong of Strickland, specifically that he was prejudiced by plea counsel's performance. Applicant's complaints concerning counsel's performance are without merit and are 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, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice.

This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of written notice of entry of this Order to secure appropriate appellate

review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely served and filed.

IT IS THEREFORE ORDERED:

- 1. That the application for post-conviction relief be denied and dismissed with prejudice; and
- 2. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 6th day of August, 2010.

Debra L. Jefferson

 Debra L. Jefferson
 Presiding Judge
 9th Judicial Circuit

Char. _____, South Carolina.

9 9019
KJ

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

0811778

ARREST WARRANT NUMBER

K300820

DATE OF ARREST

June 13, 2008

ACTION OF GRAND JURY

Mat Dan
Foreperson of Grand Jury
Date: OCT 06 2008

VERDICT:

TRUE BILL

Foreperson of Petit Jury Date:

INDICT

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

October Term 2008

THE STATE

vs.

TRAVIS DWON FORD
DOB: [REDACTED]
B/M

Indictment for
Trafficking Cocaine

FILED

2008 OCT 10 PM 2:39

JULIA M. STOKING
CLERK OF COURT

BY _____

08-3783 (01)

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

0811778

ARREST WARRANT NUMBER

K300821

DATE OF ARREST

June 13, 2008

ACTION OF GRAND JURY

Mat Duce
Foreperson of Grand Jury

Date: OCT 06 2008

VERDICT.

TRUE BILL

Foreperson of Petit Jury

Date:

INDICT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

October Term 2008

THE STATE

vs.

TRAVIS DWON FORD

DOB: [REDACTED]

B/M

Indictment for

Possession With Intent to Distribute
Cocaine Within Proximity of a School

FILED

2008 OCT 10 PM 2:39

JULIA M. STROBING
CLERK OF COURT

BY _____

08-3783 (02)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)


INDICTMENT

At a Court of General Sessions, convened on October 6, 2008 the Grand Jurors of Charleston County present upon their oath:

Possession With Intent to Distribute Cocaine Within Proximity of a School

That in Charleston County, South Carolina, on or about June 13, 2008, the Defendant, TRAVIS DWON FORD, unlawfully did distribute, sell, purchase, manufacture, or possess with intent to distribute Cocaine, a controlled substance, within a one-half mile radius of the grounds of Charleston Progressive School located at 383 Meeting Street, Charleston; all in violation of Section 44-53-445 of the South Carolina Code of Laws (1976) as amended.

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



 NATHAN WILLIAMS
 ASSISTANT SOLICITOR