

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Charleston County

S.C. SUPREME COURT

Honorable Thomas A. Russo, Circuit Court Judge

BILL BOYD BOOKER II

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000732

APPENDIX

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STATE OF SOUTH CAROLINA) GENERAL SESSIONS COURT
COUNTY OF CHARLESTON) CASE NO. 2015-GS-10-6798
2014-GS-10-2535

STATE OF SOUTH)
CAROLINA,)
Plaintiff,) Transcript of Record
vs.)
BILL BOYD BOOKER,) Date: January 27, 2016
Defendant.)

* * * * *

B E F O R E:
The Honorable Deadra Jefferson

* * * * *

Denise J. Lauder, RPR
Ninth Judicial Circuit

1 A P P E A R A N C E S

2

3 REPRESENTING THE PLAINTIFF:

4 CHARLES CONDON, ASSISTANT SOLICITOR

5 Ninth Circuit Solicitor's Office

6 101 Meeting Street

7 Charleston, SC 29401

8

9

10 REPRESENTING THE DEFENDANT:

11 RUSSELL D. HILTON, ESQUIRE

12 104 South Pine Street

13 Summerville, SC 29483

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8 INDEX OF EXHIBITS

9
10 (No exhibits were offered or
11 marked for identification.)

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1 (The following proceedings were held
2 January 27, 2016, at 9:46 a.m., Charleston County
3 General Sessions Court.)

4 THE COURT: Bill Boyd Booker. Any
5 recommendations or negotiations?

6 MR. CONDON: Good morning, Your Honor.
7 Before you is Bill Boyd Booker. He's charged with
8 one count of armed robbery, a count of attempted
9 armed robbery, and two counts of strong armed
10 robbery. We've worked out a negotiated plea in
11 this case for 25 years on armed robbery, 20 years
12 on the attempted armed robbery, and 15 years on
13 strong armed robbery.

14 THE COURT: Start over for me again.
15 Tell me what the negotiations are.

16 MR. CONDON: 25 years on armed robbery.

17 THE COURT: That's 2535, correct?

18 MR. CONDON: It carries 10 to 30.

19 THE COURT: That's not my question.

20 The Indictment's last four numbers are 2535?

21 MR. CONDON: I believe that's correct.

22 THE COURT: And you've worked out what?

23 MR. CONDON: A 25-year sentence.

24 THE COURT: And then what's the next
25 one?

1 MR. CONDON: Attempted armed robbery,
2 that's a 20-year sentence.

3 THE COURT: Okay. And the two strong
4 arms?

5 MR. CONDON: It's a 15-year sentence,
6 Your Honor.

7 THE COURT: That's what the negotiation,
8 is?

9 MR. CONDON: Yes, Your Honor.

10 THE COURT: Does he have a record?

11 MR. CONDON: He does. He has -- he's
12 on parole for five counts of armed robbery and a
13 burglary 1st degree that he had a 17-year sentence
14 for; he has a 1995 burglary 2nd degree for which he
15 received an active YOA. We did serve him with life
16 without parole notice and we've agreed to rescind
17 it as part of the plea.

18 THE COURT: Victim or victims
19 notified?

20 MR. CONDON: They have been, Your
21 Honor.

22 THE COURT: Are they present?

23 MR. CONDON: They did not wish to
24 attend.

25 THE COURT: Was there any restitution?

1 MR. CONDON: There is not.

2 THE COURT: And he's on parole you said
3 for five counts of?

4 MR. CONDON: Armed robbery and one
5 count of burglary 1st degree.

6 PROBATION: Your Honor, I don't have
7 him on parole.

8 MR. HILTON: He's completed that, Your
9 Honor.

10 THE COURT: He's maxed out his
11 sentence. When was he released from confinement?

12 MR. HILTON: 2012, Your Honor.

13 THE COURT: Mr. Hilton, you represent
14 Mr. Booker?

15 MR. HILTON: I do, Your Honor. He was
16 appointed me under the contract.

17 THE COURT: Have you explained to him
18 the charges contained in the Indictment, the
19 possible punishment, and his constitutional rights?

20 MR. HILTON: I have.

21 THE COURT: Do you believe he
22 understands the charges, the punishment, and his
23 rights?

24 MR. HILTON: He does.

25 THE COURT: Does he wish to plead

1 guilty or not guilty?

2 MR. HILTON: He wishes to plead guilty
3 under North Carolina versus Alford, Your Honor.
4 And the deal being that the life without parole was
5 withdrawn.

6 THE COURT: Do you agree with that
7 decision?

8 MR. HILTON: I do, Your Honor.

9 THE COURT: To your knowledge, has he
10 ever had to be evaluated to determine his
11 competency?

12 MR. HILTON: He has not.

13 THE COURT: Have you explained to him
14 that while pleading pursuant to the Alford
15 Doctrine, in the Court's eyes it's still a guilty
16 plea?

17 MR. HILTON: Yes.

18 THE COURT: And for his record, it's
19 still a guilty plea?

20 MR. HILTON: I have.

21 THE COURT: And have you explained to
22 him for enhancement purposes, this is still a
23 guilty plea?

24 MR. HILTON: I have.

25 THE COURT: From your investigation of

1 the facts and circumstances of this case, do you
2 believe the State would produce sufficient evidence
3 to prove your client guilty beyond a reasonable
4 doubt?

5 MR. HILTON: I do, Your Honor.

6 THE COURT: And do you believe the jury
7 would most probably find him guilty?

8 MR. HILTON: I do.

9 BILL BOYD BOOKER,

10 being first duly sworn, testified as follows:

11 THE DEFENDANT: Yes, ma'am.

12 EXAMINATION

13 BY THE COURT:

14 Q. You can put your hand down. I need you
15 to speak up a lot louder than that please.

16 State your full name for the record.

17 A. Bill Boyd Booker, the Second.

18 Q. How old are you?

19 A. 38 years old.

20 Q. How far have you gone in school?

21 A. Got a GED and two years at Tech.

22 Q. What type of work do you generally do?

23 A. Carpentry and plumbing.

24 THE COURT: Again, if anybody has a
25 cell phone on, that includes counsel, turn it off

1 or it will be taken.

2 BY THE COURT:

3 Q. Are you married?

4 A. Yes, ma'am.

5 Q. Do you have any children?

6 A. No, ma'am.

7 Q. Are you currently on probation or
8 parole?

9 A. No, ma'am.

10 Q. Have you ever been treated for the
11 abuse of alcohol, drugs, or mental illness?

12 A. Yes, ma'am.

13 Q. What were you treated for and when?

14 A. Several times for drug abuse and
15 several times for mental health treatment when I
16 was a kid.

17 Q. When was the last time you had
18 substance abuse treatment?

19 A. I just completed DAODAS two months ago.

20 Q. Was that at the detention center?

21 A. Yes, ma'am.

22 Q. What substance were you being treated
23 for?

24 A. Heroin and crack cocaine abuse.

25 Q. Have you had any drugs, alcohol, or

1 medication within the last 74 hours?

2 A. No, ma'am.

3 Q. Are you aware of any physical,
4 emotional, or nervous problem that would keep you
5 from understanding where you are right now or what
6 you're doing?

7 A. No, ma'am.

8 Q. On two counts of strong armed robbery,
9 how do you plead?

10 A. Guilty.

11 Q. Do you understand that each carries a
12 maximum penalty of 15 years?

13 A. Yes, ma'am.

14 Q. On one count of armed robbery, how do
15 you plead?

16 A. Guilty.

17 Q. Do you understand that carries a
18 minimum of ten years and a maximum of 30 years?

19 A. Yes, ma'am.

20 Q. Do you understand that it is also
21 classified as most serious and violent?

22 A. Yes, ma'am.

23 Q. Do you understand that under South
24 Carolina law if you receive an additional most
25 serious offense, you can face life without the

1 possibility of parole?

2 A. Yes, ma'am.

3 Q. On the charge of armed robbery, how do
4 you plead?

5 A. Guilty.

6 Q. Do you understand that that carries a
7 maximum of 20 years?

8 A. Yes, ma'am.

9 Q. Do you also understand that that is
10 also classified as most serious and violent?

11 A. Yes.

12 Q. And do you likewise understand that
13 under South Carolina law that if you receive an
14 additional most serious offense, you could face
15 life without the possibility of parole?

16 A. Yes, ma'am.

17 Q. Sir, you may have discussed parole or
18 parole eligibility with your lawyer or with others,
19 but until you are sentenced no one can tell you
20 when, if ever, you will be eligible for parole and
21 under what conditions. You should assume that you
22 will serve the entire time in jail that you are
23 sentenced to day for day. Do you understand?

24 A. Yes.

25 Q. I want you to listen carefully to the

1 facts.

2 THE COURT: Mr. Condon.

3 MR. CONDON: May it please the Court.

4 This incident began about 5:00 on January 5, 2012.

5 The Defendant Bill Booker's mother reported that
6 her Malibu car, tag number JDV13 was taken without
7 her permission by the Defendant.

8 The first robbery occurred at 9:15 at
9 the Sunoco gas station located at 737 Folly Road on
10 James Island in Charleston County. The Defendant
11 bought a soda and handed the clerk cash and a note
12 demanding money from the drawer. The clerk didn't
13 actually notice the note at first, and then he
14 verbally demanded money, forcibly reaching into the
15 drawer, grabbing the cash and running.

16 The clerk was able to get the Malibu's
17 license plate and informed the police. He was
18 pursued by the Charleston Police Department until
19 he was lost in traffic and they abandoned the
20 pursuit.

21 The second robbery occurred about
22 1:30 a.m. on January 6th of that night. He
23 returned to Juanita Greenberg's in Mount Pleasant,
24 in Charleston County, and attempted to arm rob the
25 bartender. He walked around to the bar opening and

1 displayed a knife to the bartender, Laura Connors,
2 and demanded money.

3 She reached for a firearm and was able
4 to pull that out, and then he fled. There were two
5 patrons in the bar that chased him out of the bar.
6 Both of them observed the knife and would testify
7 to that, or a representation of a knife. The
8 victim picked out the Defendant in a photo lineup,
9 and they reported him leaving in a car which
10 matched the description from the previous incident.

11 The third robbery occurred at 2:15,
12 this was another armed robbery, at the Scotchman
13 gas station, which is located at 508 Johnnie Dodds
14 Boulevard. The cashier Shantasia Lemmon was
15 working that night. She would testify that the
16 Defendant entered the store and attempted to
17 purchase a candy bar. Said that the Defendant
18 handed her \$2 to pay for the candy bar.

19 She opened the cash drawer and Booker
20 produced a knife which he pointed at her. He
21 demanded the contents of the drawer and reached in
22 and grabbed the money. He then fled in the black
23 Malibu.

24 The last robbery occurred about 3:30
25 that morning at the Kangaroo Express gas station on

1 503 Main Road on Johns Island, Charleston County.
2 As he was paying for a drink, he demanded that the
3 clerk give him everything. At that point he
4 reached in and forcibly grabbed \$55 out of the
5 register. The clerk attempted to shut the drawer
6 on his hand but was unsuccessful. He fled the
7 store in the Malibu and got away.

8 There is a video surveillance in all of
9 these different incidents and we would offer that
10 at trial as well.

11 Shortly after clearing the scene of the
12 final robbery, the Charleston Police Department
13 located the Malibu traveling on Highway 17 near
14 Carolina Bay in Charleston County. They initiated
15 a traffic stop at which point the Defendant fled
16 and he crashed at the intersection of Highway 17
17 and Dobbins Road. It was a high speed chase.

18 He fled on foot and actually got away
19 for about an hour. He then walked back by the car
20 -- they were about to break down the perimeter,
21 they had a perimeter set up, and then he ended up
22 walking back by the car. They noticed that he
23 matched the description of the suspect and they
24 apprehended him at that point.

25 Post Miranda, the Defendant was

1 interviewed and admitted that was him in the
2 surveillance pictures.

3 I believe I've made the Court aware of
4 his previous record and the fact we're rescinding
5 the life without parole notice as part of the plea.

6 THE COURT: Sir, do you agree or
7 disagree with the facts?

8 MR. HILTON: Your Honor, it is a North
9 Carolina versus Alford plea.

10 THE COURT: I understand that.

11 MR. HILTON: And I would just say that
12 --

13 THE COURT: He indicated however that
14 he was pleading guilty just now.

15 MR. HILTON: Under North Carolina
16 versus Alford.

17 THE COURT: That's not what he said.
18 When I asked that question, he said guilty. So I
19 need to know -- you may need to clarify that with
20 him as to what plea he's entering.

21 MR. HILTON: I've discussed it with
22 him, Your Honor. He would be pleading under North
23 Carolina versus Alford. The purpose would be, he
24 agrees with all the facts except for the knife, but
25 he understands that the video --

1 THE COURT: I don't know that the
2 knife is germane, is it? Does he have to have a
3 knife to commit a strong armed robbery?

4 MR. HILTON: Not on the strong armed
5 robbery, but the armed robbery he would. And the
6 attempted armed robbery.

7 THE COURT: Well, it only requires the
8 knife or the representation of some deadly weapon.
9 Did you explain that to him as well?

10 MR. HILTON: It would be his position
11 that he didn't produce any deadly weapon or didn't
12 make any representation; however, he understands
13 that the evidence is there and that he would be
14 convicted on an armed robbery, or an attempted, if
15 he went to trial, and that that would be the reason
16 for the North Carolina versus Alford plea.

17 THE COURT: That's only as to one
18 charge, the armed robbery, correct?

19 MR. HILTON: And the attempted armed
20 robbery. The strong armed robbery he has no issue
21 with.

22 BY THE COURT:

23 Q. Sir, do you agree or disagree that
24 these would be the facts the State would produce at
25 trial?

1 A. Yes, ma'am.

2 Q. Do you think that anything needs to be
3 changed or added to those facts?

4 A. No, ma'am. Just the fact, like
5 Mr. Hilton said about the issue with the knife, but
6 I understand that from looking at the evidence, it
7 doesn't look good and that's why I'm willing to
8 accept the plea today and accept responsibility for
9 the actions that I did do on that night.

10 Q. When you plead guilty, you give up your
11 constitutional rights. Those include your right to
12 a jury trial. At a jury trial you're entitled to a
13 presumption that you're innocent. The State has
14 the burden of proving your guilt beyond a
15 reasonable doubt.

16 You would have the right to confront
17 and cross-examine the State's witnesses, call your
18 own witnesses, present any defenses that you may
19 have, challenge any statements that you may have
20 made as well as remain silent, and your silence
21 could not be used against you. Do you understand
22 your rights?

23 A. Yes, ma'am.

24 Q. Do you understand that you are giving
25 up those rights?

1 A. Yes, ma'am.

2 Q. Other than what has been stated for the
3 record, have there been any other plea negotiations
4 made on your behalf?

5 A. No, ma'am.

6 Q. Have you been satisfied with your
7 lawyer's services?

8 A. Yes, ma'am.

9 Q. Has he answered all of your questions?

10 A. Yes, ma'am.

11 Q. Done everything that you have asked or
12 expected?

13 A. Yes.

14 Q. Do you have any complaints about his
15 services?

16 A. No, ma'am.

17 Q. Has anyone promised you anything or
18 held out any hope of a reward to cause you to plead
19 guilty?

20 A. No, ma'am.

21 Q. Has anyone used threats, coercion,
22 force, pressure, intimidation or duress to cause
23 you to plead guilty?

24 A. No, ma'am.

25 Q. Are you entering this plea freely and

1 voluntarily and of your own will?

2 A. Yes, ma'am.

3 Q. Have you understood my questions?

4 A. Yes, ma'am.

5 Q. Do you need to ask me about anything
6 that we've been over?

7 A. No, ma'am.

8 Q. Have you been truthful in your answers?

9 A. Yes, ma'am.

10 Q. Do you understand that you have the
11 right to appeal this guilty plea and sentence of
12 the Court, but that you must do so in writing
13 within ten days of today?

14 A. Yes, ma'am.

15 Q. Do you understand that if you cannot
16 afford an attorney for that process, one will be
17 appointed to you at no cost?

18 A. Yes, ma'am.

19 Q. I find there is a substantial factual
20 basis for each plea, that the Defendant has entered
21 the pleas freely, voluntarily, knowingly and
22 intelligently, that he has had the advice and
23 assistance of counsel with whom he's indicated to
24 the Court that he is satisfied. The Court accepts
25 each plea.

1 THE COURT: Anything further from the
2 State?

3 MR. CONDON: Nothing from the State,
4 Your Honor.

5 THE COURT: Anything further from the
6 defense? I have accepted the negotiated plea.

7 MR. HILTON: Thank you, Your Honor.
8 There is nothing further.

9 THE COURT: Sir, pursuant to the
10 negotiated plea, you are sentenced to the State
11 Department of Corrections for a period of 15 years
12 on each strong armed robbery, 20 years on the
13 attempted armed robbery, and 25 years on the armed
14 robbery.

15 You will get credit for any time that
16 you've served to be calculated and applied pursuant
17 to 241340. These sentences are to run concurrent
18 and I've ordered the ATU if it's available to you.

19 MR. CONDON: Thank you, Your Honor.

20 UNIDENTIFIED PERSON: May I say
21 something?

22 THE COURT: Sure, ma'am. What is your
23 name?

24 UNIDENTIFIED PERSON: My name is
25 Linda... (inaudible)

1 THE COURT REPORTER: I can't hear her,
2 Judge.

3 THE COURT: Ma'am, we need you to speak
4 up.

5 UNIDENTIFIED PERSON: I'm his mother.

6 THE COURT: If you could say your name
7 again please.

8 MS. HUGHES: My name is Linda Hughes.

9 THE COURT: Yes, ma'am.

10 MS. HUGHES: And one thing that wasn't
11 right (inaudible) off the bat, I called and I
12 reported him suicidal, not that it makes any
13 difference today, but just to know that that's what
14 was called in. That the officers thought it was
15 his brother's picture that I ...

16 THE COURT: I'm sorry, what did you
17 say?

18 MS. HUGHES: The policemen thought it
19 was my other son which he had a picture of him, but
20 I just wanted to say that I'm waiting for the drug
21 court to do its part in the community for a lot of
22 young people that are being killed by those
23 trafficking those drugs. They will go free, and I
24 basically am getting a life sentence, because this
25 is the last time I will be able to see my son.

1 That's all. I just wanted to bring those things to
2 your attention, ma'am.

3 THE COURT: Ma'am, you understand that
4 your son has entered into a negotiated plea? Do
5 you understand that? And you understand that any
6 authority I have in sentencing basically has been
7 taken from me; I either accept it or reject it. I
8 don't have any discretion.

9 MS. HUGHES: I know, ma'am. I just had
10 to say that.

11 THE COURT: So I want you to
12 understand that while I have taken into
13 consideration everything that you've said, the
14 State and your son's attorney have already worked
15 out his sentence. Okay?

16 MS. HUGHES: Yes, ma'am.

17 THE COURT: Thank you, ma'am. Was
18 that your phone that went off earlier?

19 Give it back to her.

20 MR. HILTON: Your Honor, he was
21 incarcerated January 6th, 2014, and you gave him
22 credit from the time that he serves --

23 THE COURT: Department of Corrections
24 will calculate it.

25 MR. HILTON: Yes, ma'am. Thank you,

1 Your Honor.

2 (These proceedings were concluded at

3 10:03 a.m.)

4 (These proceedings were concluded at

5 10:03 a.m.)

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1 CERTIFICATE OF REPORTER

2

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

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

11 Witness my hand, I have hereunto affixed my
12 official seal this 25th day of March, 2017 at
13 Charleston, Charleston County, South Carolina.

14

15

16

17

Carol Denise Lauder
Registered Professional
Reporter, CP
My Commission expires
August 2, 2017

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FORM 5

STATE OF SOUTH CAROLINA)

County of Charleston)BILL BOYD BOOKER # 228462)

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

v.)

State of South Carolina)

2017-CP-10-280
IN THE COURT OF COMMON PLEAS)

APPLICATION FOR)

POST-CONVICTION RELIEF)

FILED
2017 JAN 19 PM 12:45
CLERK OF COURT
LIE J. ARMSTRONGINSTRUCTIONS - 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 Ct Po Box 205Ridgewood SC 29472

2. Name and location of Court which imposed sentence

Charleston General Sessions

3. Name(s) of co-defendant(s) (if any)

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2014-GS-1002535 ARMED Robbery (2) Common Law Robbery (1) N/A(b) Attempt ARM Robbery (1)2015-GS-10-06798

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) JAN. 28, 2016
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒ Negotiated / (Package Plea)
- (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?
- _____
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) N/A
- (b) _____

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

- (a) INVOLUNTARY PLEA
 (b) INEFFECTIVE ASSISTANCE OF COUNSEL
 (c) PROSECUTORIAL MISCONDUCT ①

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

- (a) Coerced in to pleading by intimidation
 (b) Wasn't advised of certain rights and
 (c) certain issues were not raised

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. _____

① TO BE AMENDED BY COUNSEL SERVIC. PRO. 71.1.①

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

No

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

(a) which grounds have been presented:

- i. NO
- ii. _____
- iii. _____

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

- i. NO
- 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) W/F
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? RUSSELL HILTON (ESQ)
- (b) your trial, if any? ✓
- (c) your sentencing? ✓
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? ✓
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? ✓
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. RUSSELL HILTON (ESQ), 104 Pine St.
SOMMERVILLE, SC 29483
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Plea
- ii. _____
- iii. _____

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

PLEA VACATED

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

No

STATE OF SOUTH CAROLINA)

County of Charleston)

VERIFICATION

I, Bill Booker, 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.

+ Bill Booker

SWORN to and subscribed before me this 9 day of January, 2017

Notary Public

My Commission Expires: 5/1/2018

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

I, Bill Booken, 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.

Bill Booken
Applicant

SWORN or affirmed to and subscribed before me this

9 day of January, 2017.

Audrey Burton
Notary Public

My Commission Expires: 5/1/2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
Bill Boyd Booker, II, #228462,	)	Case No. 2017-CP-10-0280
	)	
Applicant,	)	RETURN AND PARTIAL MOTION TO
	)	DISMISS
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent (the "State"), making its Return to the Application for post-conviction relief filed on January 19, 2017, would respectfully show this Court:

I.

Bill Boyd Booker, II ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. In May 2014, the Charleston County Grand Jury indicted Applicant for armed robbery (2014-GS-10-2535) and strong arm robbery (2014-GS-10-2536). Applicant was subsequently indicted by the December 2015 term of the Charleston County Grand Jury for attempted armed robbery (2015-GS-10-6798). Russell D. Hilton, Esquire, represented Applicant. Assistant Solicitor Charles Condon, Esquire, prosecuted the case. On January 27, 2016, Applicant pleaded guilty, pursuant to Alford¹, as indicted to all charges before the Honorable Deadra Jefferson. Pursuant to a negotiated sentence, Judge Jefferson sentenced Applicant to imprisonment for concurrent terms of twenty-five years for armed robbery, fifteen years for strong arm robbery, and twenty years for attempted armed robbery. Applicant did not appeal his conviction or sentence.

¹ North Carolina v. Alford, 25 U.S. 400 (1970).

II.

On January 5, 2012, Applicant took possession of his mother's car without her permission. (Tr. pg. 12). Applicant's mother reported her vehicle missing. (Tr. p. 12).

On the same night, a robbery occurred at a James Island gas station at 9:15pm. (Tr. p. 12). According to the gas station attendant, Applicant bought a soda and when handing over the payment, also handed the attendant a note demanding money. (Tr. p. 12). The attendant did not initially see this note, causing Applicant to proceed to verbally demand for the money from the drawer. (Tr. p. 12). Applicant then reached into the cash drawer, took all the cash, and fled the gas station. (Tr. p. 12). The attendant was able to get the license plate of the car and informed law enforcement of the robbery. (Tr. p. 12). Law enforcement responded and chased after Applicant, until they lost Applicant in traffic. (Tr. p. 12).

The following morning, January 6, 2012 at 1:30am, a second robbery occurred. (Tr. p. 12). Applicant displayed a knife to the bartender and made an attempt to rob a Mount Pleasant bar. (Tr. pp. 12-13). The bartender reciprocated his action, reaching for a firearm, which caused Applicant to leave the bar. (Tr. p. 13). A car matching the description of the mother's missing car was reported. (Tr. p. 13).

Around 2:15am, Applicant committed a third robbery, this time robbing a Mount Pleasant gas station. (Tr. p. 13). Applicant tried to purchase a candy bar from the attendant, handed the attendant cash for the candy bar, and once the cash drawer was opened, Applicant pointed a knife at the attendant and demanded she give him all the money. (Tr. p. 13). Applicant then reached into the drawer and took all the money inside and then fled the gas station in the same car reported missing. (Tr. p. 13).

The last robbery took place that morning around 3:30am at a John's Island gas station. (Tr.

pp. 13-14). While paying for a drink, Applicant demanded the attendant give him all the money from the cash drawer. (Tr. p. 14). Applicant then reached into the drawer himself and took the money from the drawer and left the gas station in the same missing vehicle. (Tr. p. 14).

All four incidents are backed by video surveillance from each location. (Tr. p. 14).

After the final robbery, the Charleston Police Department found the missing vehicle on Highway 17. (Tr. p. 14). Law enforcement began a traffic stop and Applicant sped off until he crashed further up the road. (Tr. p. 14). After the accident, Applicant continued to flee by foot and was missing from the scene for approximately an hour at which point he returned to the car where the cops interviewed him and he admitted to being the one in the surveillance footage. (Tr. pp. 14-15).

III.

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

1. "Involuntary Plea"
 - a. "Coerced in to pleading by intimidation"
2. "Ineffective Assistance of Counsel"
 - a. "Wasn't advised of certain rights and certain issues were not raised"
3. "Prosecutorial Misconduct"

Attached to this Return and incorporated by reference are the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the post-conviction relief application. The State reserves the right to amend this Return upon receipt of any relevant materials.

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

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

IV.

The State submits Applicant's allegations of ineffective assistance of counsel are without merit. In a post-conviction relief action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at

814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

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

V.

Applicant also asserts his plea was involuntary. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not “within the competence demanded of attorneys in criminal cases.” Hill v. Lockhart, 474 U.S. 52, 56 (1985). Further, “[t]hat

a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing.” McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, “whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases.” Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and “may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both.” Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, “[a] guilty plea is a solemn, judicial admission of the truth of the charges” against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, at 137–38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). “In considering an allegation on post-conviction relief that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing.” Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

The State submits the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the State requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

VI.

Applicant also alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issue that is procedurally barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is Applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, 109 S. Ct. 2201 (1989). Therefore, the State submits that this allegation be summarily dismissed.

VII.

Respondent also hereby moves for a more definite statement regarding his allegations of unlawful revocation of probation. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may

adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VIII.

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

IX.

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

X.

WHEREFORE, the State requests that an evidentiary hearing be held on the claims of ineffective assistance of plea counsel and involuntary guilty plea.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: Megan Harrigan Jameson
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
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Columbia, SC 29211
Telephone: (803) 734-3737

July 7, 2017

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

BILL BOYD BOOKER II, #228462

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent,

IN THE COURT OF COMMON PLEAS

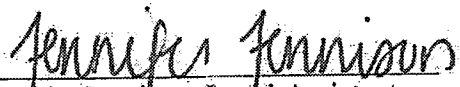
2017-CP-10-0280

AFFIDAVIT OF SERVICE BY MAIL

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

Mr. Christopher L. Murphy
 Murphy Law Offices, LLC
 234 Seven Farms Drive
 Suite 128
 Charleston, SC 29492

DATED this the 7th day of July, 2017.


 Jennifer Jennison, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF CHARLESTON NINTH JUDICIAL CIRCUIT
2017-CP-10-00280

BILL BOYD BOOKER, II)
) TRANSCRIPT OF
) RECORD
)
 APPLICANT,)
)
)
 VS.)
)
) FEBRUARY 28, 2018
) CHARLESTON, SC
)
 THE STATE OF SOUTH)
 CAROLINA,)
)
)
 RESPONDENT.)

B E F O R E:

HONORABLE THOMAS RUSSO

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

RASHEEDA CLEVELAND, ESQUIRE
Attorney for the Respondent

CHRIS MURPHY, ESQUIRE
Attorney for the Applicant

* * * * *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

I N D E X

Page

POST-CONVICTION RELIEF HEARING

3

WITNESSDXCX

Bill Booker

4

16

Russell Hilton

21

33

CLOSING ARGUMENT:

BY MR. MURPHY

37

BY MS. CLEVELAND

37

CERTIFICATE OF REPORTER

44

STATE'S EXHIBITMARKEDADMITTED

1-letter

34

34

1 (The following proceedings were held
2 February 28, 2018, Charleston County, South
3 Carolina, @ 10:08 a.m.)

4 MS. CLEVELAND: May it please the
5 Court, the next matter is Bill Booker versus the
6 State of South Carolina, docket number
7 2017-CP-10-0280. Mr. Booker was indicted at the
8 May 2014 term of the Charleston County grand jury
9 for armed robbery and strong armed robbery. He was
10 subsequently indicted at the December 2015 term for
11 attempted armed robbery. Russell Hilton
12 represented Mr. Booker. Assistant solicitor
13 Charlie Condon prosecuted the case.

14 On January 27th, 2016, Mr. Booker pled
15 guilty under Alford as indicted on all charges
16 before the Honorable Deadra Jefferson. Pursuant to
17 the negotiated sentence Judge Jefferson sentenced
18 him to imprisonment for concurrent terms of
19 25 years for the armed robbery, 15 years for strong
20 armed robbery and 20 years for the attempted armed
21 robbery. Mr. Booker did not appeal his conviction
22 or sentence.

23 He filed this post-conviction relief
24 action on January 19th, 2017 alleging involuntary
25 guilty plea and ineffective assistance of counsel

1 and he is represented today by Mr. Chris Murphy and
2 he is present in the courtroom.

3 THE COURT: All right.

4 MR. MURPHY: Thank you, Your Honor. We
5 are ready to proceed. We will call Mr. Booker.

6 THE COURT: Thank you, sir.

7 BILL BOOKER

8 having been duly sworn, testifies as follows:

9 THE CLERK: Please state your full name
10 and spell your last name.

11 THE WITNESS: Bill Booker, B-O-O-K-E-R.

12 DIRECT EXAMINATION

13 BY MR. MURPHY:

14 Q. All right. Mr. Booker, you were -- do
15 you recall pleading guilty or pleading under Alford
16 to the charges that got you here today? Do you
17 recall that?

18 A. Yes, somewhat, yes, sir.

19 Q. All right. And you say some of that.
20 You were represented by an attorney in those cases,
21 right?

22 A. Yes, sir.

23 Q. And that was Mr. Russell Hilton?

24 A. Yes. For part I had Mary Ford at
25 first, then they give me Russell Hilton later on

1 because of a conflict of interest.

2 Q. All right. Let's talk about that. You
3 had Mary Ford from the public defender's office?

4 A. Yes, sir.

5 Q. And do you -- are you alleging anything
6 against Mary Ford in this PCR?

7 A. Just that she was assigned my case and
8 one of the victims in my case happened to be in the
9 county at the same time was actually her client too
10 for at least six months before and I had to bring
11 it to her attention before it was even noted.

12 Q. And once you brought that conflict to
13 her attention she was relieved as counsel?

14 A. Yes, even though I was assigned her
15 first. I never understood why she got off my case
16 being on there longer.

17 Q. All right. And did you actually have a
18 hearing before a judge relieving Ms. Ford as
19 counsel?

20 A. No.

21 Q. So there was just a consent to be
22 released because of this conflict?

23 A. Yes, sir.

24 Q. And did you sign the consent order?

25 A. I don't recall signing.

1 Q. You don't recall. You were then
2 appointed Russell Hilton; is that correct?

3 A. Yes, sir.

4 Q. So Russell was court appointed, he was
5 not privately retained?

6 A. Yes, sir.

7 Q. Now, when Russell -- when you were
8 charged or when you were appointed Russell were you
9 in jail at the time or were you out on bond?

10 A. I was in jail at the time.

11 Q. And were you in jail the entire time
12 before you pled guilty?

13 A. Yes, sir.

14 Q. Now, in terms of Russell Hilton, and I
15 want to focus on him, how many times did you meet
16 with him before pleading guilty, do you recall
17 that?

18 A. Probably about three times.

19 Q. And do you recall the substance --
20 well, let me ask you this: How long were those
21 meetings?

22 A. Probably the last one was probably
23 about the longest, like a week before I was
24 supposed to go to trial and then that's when he
25 come to negotiate the plea I mean --

1 Q. Let's back up. We will get to that. I
2 am just asking these meetings, how long did they
3 last?

4 A. Not that long.

5 Q. Would you say a half hour?

6 A. Maybe give or take.

7 Q. And you said there was three of them
8 that you recall?

9 A. Yes.

10 Q. And when you say these meetings, did
11 you talk about the charges against you?

12 A. Yeah. Basically he just kept on
13 pushing, pushing the 25 years at me saying that Mr.
14 Condon wasn't going to come no lower than that.

15 Q. Let's get to that now. You talked
16 about a 25 year, there was some plea negotiations;
17 is that correct?

18 A. Just the one was either take this or
19 then on Christmas Eve of 2014 or '15 they served me
20 notice to seek life without parole on Christmas Eve
21 day, so it was like hey, Merry Christmas right
22 here.

23 Q. So they served you with a LWOP notice
24 or life without parole notice on Christmas Eve?

25 A. Yes, sir.

1 Q. But prior to that LWOP notice was there
2 any plea negotiations or any offers by the State
3 for you to plead guilty?

4 A. Just the 25 years.

5 Q. Sorry?

6 A. Twenty-five years, that's it.

7 Q. Twenty-five years.

8 A. And I had been there like two years
9 already.

10 Q. Okay. So you understood that that was
11 an 85 percent crime?

12 A. I didn't -- I mean yeah, but they were
13 telling me that it was supposed to get dropped to
14 65 or something.

15 Q. Okay. Let me ask you this: This is
16 important, sir, in terms -- and you got to try and
17 focus. In terms of the plea negotiations before
18 that LWOP notice, I understand that there was a
19 25-year deal, that was it; is that correct?

20 A. Yeah.

21 Q. And I assume you turned that down
22 because -- you turned that down, there was an LWOP
23 notice then?

24 A. Yes, sir.

25 Q. Is that how the timeline went?

1 A. Yeah. See, they give me an evaluation
2 somewhere along the line. Probably I had been
3 there about a year and we was supposed to get a
4 second opinion. I never even got to get the other
5 evaluation before I went to court.

6 Q. All right. Now, when you say second
7 opinion and evaluation, what are you talking about?

8 A. Basically that Mary Ford had one done,
9 but I had never had one done once I got the new
10 attorney.

11 Q. Are you saying -- telling the Court
12 that Mary Ford had a competency evaluation to see
13 if you were competent to stand trial?

14 A. Yes, sir.

15 Q. Now, sir, I didn't tell you this, but
16 you got to let me finish the sentence before you
17 answer, okay? So Mary Ford asked for a competency
18 evaluation?

19 A. Yes, sir.

20 Q. And did you actually see a doctor about
21 that?

22 A. Yes, sir.

23 Q. Somebody interviewed you?

24 A. Yes, sir.

25 Q. Tell us about that interview? How long

1 did it last?

2 A. I think for the doctor probably like an
3 hour and-a-half first time and maybe an hour the
4 second time.

5 Q. Were you on any medication at the time?

6 A. Yes, sir.

7 Q. What medication were you on?

8 A. I can't remember exactly.

9 Q. Were you on any additional medication
10 after the evaluation?

11 A. Yeah. I am still on the medication
12 now.

13 Q. It's the same medication as before?

14 A. I can't even tell you what I am taking
15 now.

16 Q. Let me ask you this: Prior to the LWOP
17 notice and going to your plea did you understand
18 the nature of the charges against you?

19 A. Somewhat, yes, sir.

20 Q. Did you understand the possible
21 penalties against you?

22 A. I mean, yeah, kind of. I mean I wasn't
23 explained that I would have to do the whole
24 22 years out of 25. I was explained a lot less
25 than that.

1 Q. All right. What was explained to you
2 what would happen?

3 A. That I would have to do 65 percent of
4 the 25.

5 Q. All right. And I assume -- let me ask
6 you who told you that there was a 65 percent rather
7 than 85 percent?

8 A. The lawyer did.

9 Q. Mr. Hilton told you?

10 A. Yes.

11 Q. How many times did he tell you that?

12 A. I don't think he told me but once
13 because that's all. I didn't get to see him that
14 much. There was some letters in between, but I
15 don't think I really mentioned it in there.

16 Q. Tell the Court about that one time that
17 he told you that. What were you discussing and
18 just kind of paint a picture how that came about?

19 A. We kind of discussing the fact that the
20 -- like I said, one of the victims that was in the
21 county at the time, she was already in I guess
22 making a deal so to speak and was ready to testify
23 against me. So we were kind of weighing the
24 options whether to go against that and the evidence
25 at hand or whether I should take it, risk it or

1 risk getting a life sentence and I was kind of on
2 the fence all the way up to the end.

3 Q. All right. Let me ask you this: And
4 this is probably my fault for jumping around a
5 little bit. We never finished with the evaluation
6 issue. You had the competency evaluation. Did you
7 ever see the results of that evaluation?

8 A. No, sir.

9 Q. Did you ever talk to Mr. Hilton about
10 an evaluation?

11 A. Yes, sir.

12 Q. Tell us what you talked to him about?

13 A. I told him like I had been through a
14 similar situation 20 some years ago where I was
15 ordered an evaluation by the judge and somehow the
16 paperwork got lost. Miraculously when I filed for
17 evaluation this time that paperwork from 20 years
18 ago popped up where the judge signed it. And even
19 now I asked them for the evaluation and never even
20 given one.

21 Q. Did you have an opinion as to whether
22 or not you were -- you felt competent to go
23 forward?

24 A. I don't know. I don't know if I am
25 competent now.

1 Q. Did you ask Mr. Hilton to follow up on
2 that evaluation at all?

3 A. I don't remember.

4 Q. All right. Now, let's go back to the
5 65 percent. You said you talked to Mr. Hilton once
6 about the 65 percent?

7 A. Yes.

8 Q. And what was your -- was it your
9 understanding that if you pled guilty you would get
10 -- you would have to serve 65 percent of the time?

11 A. Out of 25 years, yeah.

12 Q. And you understand that you pled under
13 Alford to a negotiated plea?

14 A. I don't know what Alford means, but,
15 yeah, negotiated plea is all they talked about.

16 Q. Let me ask you this: You said I don't
17 know what Alford means. You are testifying today
18 do you know what an Alford plea is?

19 A. No.

20 Q. Do you know if it has any different
21 effect or impact as to a straight up plea or a
22 regular plea?

23 A. No.

24 Q. Now, you also talked about a negotiated
25 sentence. Do you understand what a negotiated

1 sentence was?

2 A. Yeah, to the extent that it is like I
3 mean basically making a deal get lesser time than
4 you could be facing.

5 Q. And if I hear you, you said you were
6 facing a life sentence, an LWOP, you took the
7 25-year deal thinking because you didn't want to go
8 to trial and risk getting life?

9 A. Basically because I was facing the life
10 sentence because I was charged with armed robbery
11 and I never have no weapon to rob nobody. The man
12 didn't do no kind of investigation to see whether
13 or not I had one or not. They didn't question no
14 witnesses, they didn't go looking for anybody, no
15 victims or nothing. One of the victims was in the
16 county jail, didn't attempt to even question her.

17 Q. All right. Did you go -- now what you
18 are talking about is possible defenses to the armed
19 robbery charge?

20 A. Yes. Exactly. And what's that I was
21 facing life sentence on.

22 Q. Did you talk to your attorney about
23 these defenses?

24 A. Yeah.

25 Q. And what was the result?

1 A. He just never talked to me, never said
2 nothing about it.

3 Q. Okay. And as far as he never followed
4 up with any investigation?

5 A. (Indicating.)

6 Q. Now, you're alleging that you were not
7 competent or your attorney did not follow up an
8 evaluation for competency, correct?

9 A. Um-hmm.

10 Q. You are also alleging that you thought
11 it was a 65 percent sentence rather than
12 85 percent, correct?

13 A. Yes, sir.

14 Q. And then you are also alleging your
15 attorney didn't investigate your defenses in terms
16 of whether or not you had a weapon or witnesses or
17 that sort of thing?

18 A. Yes, sir.

19 Q. And other than those three grounds that
20 we have covered is there anything else you are
21 alleging your attorney did wrong when representing
22 you?

23 A. No, other than I just think he was
24 unprepared and just not given proper -- given the
25 case kind of last minute. I had already been in

1 the county probably 22 or 23 months so he kind of
2 got the case last three or four months that I was
3 there.

4 MR. MURPHY: All right. That would be
5 all I have.

6 THE COURT: Cross-examination.

7 CROSS-EXAMINATION

8 BY MS. CLEVELAND:

9 Q. Good morning, Mr. Booker.

10 A. Good morning.

11 Q. Mr. Booker, isn't it correct that Judge
12 Jefferson explained what it meant to plead guilty
13 pursuant to Alford?

14 A. I don't even know who Judge Jefferson
15 -- that's who I went in front of?

16 Q. Yes.

17 A. I suppose. I don't remember too much.

18 MS. CLEVELAND: Your Honor, let the
19 record reflect that on page 7 of the transcript
20 that Judge Jefferson goes through what it means to
21 plead guilty pursuant to Alford.

22 THE COURT: All right. It is noted.

23 BY MS. CLEVELAND:

24 Q. Do you recall, Mr. Booker, telling
25 Judge Jefferson that you were satisfied with your

1 services provided by Mr. Hilton?

2 A. No, ma'am.

3 Q. And that your attorney answered all of
4 your questions, correct?

5 A. No, ma'am.

6 Q. Can you say that again?

7 A. No, ma'am.

8 Q. And that he had done everything that
9 you asked and expected of him?

10 A. I'm saying I was on some different
11 medication then. I don't remember too much.

12 MS. CLEVELAND: Beg the Court's
13 indulgence for just a moment.

14 THE COURT: Yes, ma'am.

15 BY MS. CLEVELAND:

16 Q. May I approach the witness, Your Honor?
17 Mr. Booker, if I showed you the transcript if you
18 will just start right there. Read all the way down
19 to the end and see if that refreshes your
20 recollection.

21 A. (Witness complies with request.)

22 Q. So now, Mr. Booker, do you recall
23 telling Judge Jefferson that you were satisfied
24 with the services of your attorney?

25 A. I don't recall saying that, but the

1 transcript says that I did so I suppose so.

2 Q. Isn't it also correct that you told
3 Judge Jefferson that you weren't threatened or
4 coerced or forced or pressured into accepting the
5 plea?

6 A. That's what the transcript says, yes,
7 ma'am.

8 Q. Is that you were pleading pursuant to
9 Alford freely and voluntarily and of your own free
10 will?

11 A. That's what it said, but like I said, I
12 don't recall.

13 Q. Mr. Booker, earlier you testified that
14 you didn't want a life sentence, correct?

15 A. Yes, ma'am, especially what I did
16 didn't even fit the criteria for it. Got to have a
17 weapon to be armed robbery.

18 Q. And you pled guilty because you were
19 afraid of getting that life sentence; is that
20 correct?

21 A. I pled guilty because I wasn't
22 confident going to trial with the lawyer that I
23 had, confident in going to trial with the lawyer
24 that I had.

25 Q. Mr. Booker, during the plea hearing you

1 were asked if you had any mental illnesses. Do you
2 recall telling the judge that you did, but it was
3 when you were a kid?

4 A. I don't know why the hell I would have
5 told her that. Excuse my language. Yes, ma'am, I
6 guess. I don't recall telling her that though.

7 Q. Do you recall telling her that there
8 was nothing that was keeping you from being able to
9 understand what you were doing on the day of the
10 plea?

11 A. No, ma'am, I don't.

12 MS. CLEVELAND: Beg the Court's
13 indulgence.

14 THE COURT: Yes, ma'am.

15 BY MS. CLEVELAND:

16 Q. Do you recall the Court explaining to
17 you your parole eligibility and the conditions of
18 your sentence?

19 A. Huh-uh.

20 Q. If I showed you the transcript do you
21 think that will refresh your memory? May I
22 approach?

23 THE COURT: Yes, ma'am.

24 BY MS. CLEVELAND:

25 Q. Start right here.

1 A. (Witness complies with request.)

2 MS. CLEVELAND: Your Honor, let the
3 record reflect that that discussion took place on
4 page 11 beginning at line 17.

5 THE COURT: Yes, ma'am.

6 BY MS. CLEVELAND:

7 Q. One last question, Mr. Booker. Do you
8 recall telling Judge Jefferson that you understood
9 the potential sentences that each of your offenses
10 carried and that you could receive a classification
11 for your sentences? Do you recall telling Judge
12 Jefferson that you understood each of those things?

13 A. No, ma'am.

14 Q. Do you recall telling Judge Jefferson
15 that you had no physical or emotional or nervous
16 conditions that would keep you from understanding
17 what you were doing on the day of your plea?

18 A. No, ma'am.

19 MS. CLEVELAND: Your Honor, let the
20 record reflect that on page 10 of the transcript
21 Judge Jefferson asked him those questions and he
22 answered her no, ma'am.

23 THE COURT: All right.

24 MS. CLEVELAND: Nothing further. Thank
25 you, Mr. Booker.

1 MR. MURPHY: Nothing further, Your
2 Honor.

3 THE COURT: Thank you very much. Sir,
4 you may step down. Anything further, Mr. Murphy?

5 MR. MURPHY: We would call Mr. Russell
6 Hilton, sir.

7 THE COURT: Mr. Hilton, please come
8 around and be sworn, sir.

9 RUSSELL HILTON

10 having been duly sworn, testifies as follows:

11 THE CLERK: Please state your full name
12 and spell your last name.

13 THE WITNESS: Russell Hilton,
14 H-I-L-T-O-N.

15 DIRECT EXAMINATION

16 BY MR. MURPHY:

17 Q. Mr. Hilton, you represented Mr. Booker
18 on these charges?

19 A. I did.

20 Q. And tell us how you became involved in
21 representing him?

22 A. Back when I was appointed to his case,
23 I was looking back through my notes a minute ago.
24 I think it was in May of 2015, during that year I
25 had one of the indigent defense contracts and I was

1 a contracted attorney in both Charleston and
2 Berkeley and in Dorchester Counties. And at that
3 time I received an appointment on Mr. Booker's case
4 because of some conflict. I don't know what the
5 conflict was, but I received his case at that time.

6 Q. And we will actually get to that in a
7 little bit. Do you recall how many times you met
8 with Mr. Booker prior to his going to court for
9 this plea?

10 A. I met with him -- he testified three
11 times. Was three or four times, somewhere in
12 there, probably three times at the jail, probably
13 one time here at the courthouse before -- prior to
14 the plea.

15 Q. And those -- he was held in Charleston
16 County Detention Center?

17 A. He was in Charleston County the whole
18 time. There was also numerous letters back and
19 forth. Mr. Booker was a writer. He is very
20 intelligent and he would write me often and we
21 would respond to those letters and communicate in
22 that fashion as well.

23 Q. Do you have a copy of your file with
24 you?

25 A. I do.

1 Q. And does the file -- is that under the
2 608 program you were appointed to represent him?

3 A. That's correct. It was the indigent
4 defense has that contract in place now so, yes, it
5 was pursuant to that contract.

6 Q. And did you keep your time that you
7 devoted to this case under the contract?

8 A. No, those flat fee cases we kept notes
9 as to everything that was done, but I didn't
10 individually log hours on those cases.

11 Q. Do you recall if you had to add up the
12 hours that you spent on Mr. Booker's case what it
13 would be?

14 A. Responding to his letters and visits in
15 the jail and going through the discovery which was
16 a fair amount, I would say 10 or 12 hours.

17 Q. Now, in terms of you got this case
18 handed to you from Mary Ford; is that correct?

19 A. It wasn't directly from Mary Ford. Was
20 just an appointment from the court through the
21 public defender's office.

22 Q. That's fair enough. Did you know of
23 any type of competency evaluation prior to your
24 representation?

25 A. I was not aware of that. I didn't -- I

1 was not aware of that and in any discussions with
2 Mr. Booker there was no -- there was nothing that
3 indicated to me that he had been evaluated, needed
4 to be evaluated or anything along those lines.

5 Q. So when you were -- in your
6 representation you didn't think there was any
7 reason for a competency evaluation?

8 A. I did not. And, in fact, looking
9 through the transcript the Court asked -- Judge
10 Jefferson asked if I had -- was aware he had ever
11 been evaluated and I said I was not.

12 Q. Did you know if he was on any
13 medication at the time you were representing him?

14 A. I don't know. It certainly wasn't any
15 medication that clouded his discussions. We had
16 discussions about his charges. Like I said, he was
17 very intelligent. He knew what was going on and he
18 had been down this road before. This wasn't his
19 first time around in criminal court.

20 Q. Now, in terms of -- did he ever bring
21 up the issue of competency with you saying I don't
22 feel like I know what I am doing or I don't feel
23 competent, anything like that?

24 A. Well, let me ask you both parts to
25 that. If he brought up any issue of competency, it

1 certainly wasn't something that triggered me to get
2 an evaluation for him and I certainly never felt
3 like or did he ever communicate to me that he
4 wasn't competent or didn't know what was going on.

5 Q. All right. And now let's talk about
6 you heard him testify about the 65 percent versus
7 85 percent part of the sentence he would have to
8 serve before becoming parole eligible. Do you
9 recall any discussions with him about what type of
10 -- how long he would have to serve before becoming
11 parole eligible?

12 A. I do. And he was charged with several
13 counts and the armed robbery was the charge that
14 was most important to him because that -- well, and
15 the attempted armed robbery because that put him in
16 that life without parole category. He had the
17 previous armed robbery I think from, I don't know,
18 a decade or so ago, but at any rate he was eligible
19 for life without parole. So we had had a
20 discussion on that and that was a lot of our
21 discussions whether he was going to plead guilty or
22 not because if we could get the life without parole
23 off the table then he was still facing that armed
24 robbery potentially and that is a no parole
25 85 percent sentence. Anything that carries more

1 than 20 years or more is considered a no parole
2 offense, classified him in that 85 percent
3 category. If there was any discussion of anything
4 less than that it would have been with regards to
5 the strong armed robbery charges. They do not
6 carry that 85 percent classification, that no
7 parole classification. So if there was any
8 discussion it would have been with that. He was
9 well informed of that and he knew what was going on
10 with regard to the armed robbery charges. In fact,
11 we had multiple discussions that if we could get
12 rid of that armed robbery then or the attempted, if
13 we could get rid of the armed robbery portions of
14 it he wouldn't be facing that life without parole
15 and he could go to trial on that.

16 Q. And let me ask you about any plea
17 negotiations. It came up through his testimony.
18 Was there any plea negotiations prior to -- well,
19 let me ask you this: What was the soonest -- were
20 there any offers by the State for plea negotiations
21 or attempts to negotiate prior to his plea?

22 A. There were.

23 Q. Tell us about those.

24 A. There were. Several months prior to
25 his plea Charles Condon had offered a range of 25

1 to 30, a negotiated range of 25 to 30. And I had
2 that discussion with Mr. Booker. And Mr. Booker's
3 concern all along was he didn't do this armed
4 robbery. And he was vocal about that. And let me
5 digress just for a second to point out that he pled
6 and this isn't ever clear in the transcript, but he
7 pled under North Carolina v. Alford only on the
8 armed robbery charge. The other charges he didn't
9 have any issue with. He pled to those. In fact,
10 he couldn't plea under North Carolina v. Alford
11 because there was no deal. He was pleading
12 straight up getting the max. So it was only the
13 armed robbery charge that got pled under North
14 Carolina v. Alford.

15 So back to the question original
16 negotiations were for that range of 25 to 30. And
17 in speaking with Mr. Booker he did not want to do
18 that because he was convinced that he wouldn't be
19 found guilty of the armed robbery. At the time we
20 didn't have or were unaware that there was -- I
21 think was a video of the Juanita Greensburg robbery
22 which was the armed robbery he was charged with. I
23 was able to get a copy of that, go down and meet
24 with Mr. Booker in the jail and looking at my notes
25 back there as he was testifying I showed him that

1 video. And after watching the video he agreed with
2 me that while he maintains he did not have a weapon
3 that he sees what they are talking about and that
4 he felt that he would be convicted if he went to
5 trial on armed robbery.

6 Because of that I went back to the
7 prosecutor and said if you can do the 25 years I
8 think he will do the 25 years. They came to us and
9 said we will do the 25 years. I think Mr. Condon
10 had to check with Mr. DuRant or somebody, the
11 deputy solicitor, and they ended up allowing us to
12 do the 25 years. I went back to Mr. Booker. And
13 he said I'll do the 25 years.

14 Q. All right. I want to make sure I
15 understood you. Did you say that prior to getting
16 that video was Mr. Booker's defense that he wasn't
17 involved in the crime or didn't commit it or was it
18 just that he didn't have a weapon?

19 A. No. From day one he took
20 responsibility for the strong arm robberies. And
21 he took responsibility for being at Juanita
22 Greenburg's, the charge that ended up being the
23 armed robbery. But he maintained that it was an
24 armed robbery, it was if anything a strong armed
25 robbery. But after looking at that video, seeing

1 what they were talking about, he felt that he would
2 be convicted of that. That's where we ended up
3 working the North Carolina v. Alford plea on that
4 particular charge.

5 Q. And can you tell the Court why was the
6 prosecutor -- 25 years is a heavy sentence. What
7 made this set of charges so serious? I understand
8 it's an armed robbery, but were there multiple
9 charges, did they dismiss anything as a result of
10 this plea?

11 A. I don't think anything was dismissed.
12 I think I just had the -- just four charges total.
13 But what made it so serious is he had prior armed
14 robberies. And so, you know, this was a clear case
15 that was eligible for life without parole if they
16 could have convicted him on the subsequent armed
17 robbery or attempted armed robbery.

18 Q. Now, prior to the LWOP notice was there
19 any offer by the prosecutor or the State of
20 anything less than 25 years?

21 A. No. That was always.

22 Q. Then tell us what led to the LWOP
23 notice? How did that come about?

24 A. Originally Mr. Booker turned down their
25 range of 25 to 30 so at that point they served us

1 with a notice of intent to seek life without
2 parole. And it was at that point that we went back
3 and the video came into play in there at some point
4 in time. I was kind of able to use that to say
5 look, you know, if you don't allow him to plea to
6 this, I'm going to go back to the court and make a
7 motion to allow him to plea because we didn't have
8 all the discovery at the time. So that's kind of
9 how it came together.

10 Q. I understand that. Now -- but then
11 after that you were able to get them down to a
12 25-year negotiated plea?

13 A. That's correct.

14 Q. And was there anything less on the
15 table than 25 years?

16 A. Never.

17 Q. Now, the next issue involves the
18 investigation. Did you have a video -- you
19 obviously read the discovery. Did you talk to any
20 witnesses about this crime?

21 A. I didn't. And that was because Mr.
22 Booker took responsibility for it. The only issue
23 was whether he had a knife or whether he didn't
24 have a knife.

25 Q. And what about the victim -- was the

1 victim incarcerated at the time of trial or the
2 time this was getting called?

3 A. There was several victims. Which
4 victim are you referring to specifically?

5 Q. The one in the -- Ms. Lemon?

6 A. I think it was Ms. Lemon. I didn't
7 talk to her. I think she may have been in jail,
8 but again the issue just boiled down to whether the
9 knife was involved or not.

10 Q. But the one he agreed was the armed
11 robbery, that was the crux, the main armed robbery
12 charge; is that correct?

13 A. That's correct.

14 Q. And in terms of was there any
15 investigation in terms of witnesses, and let me
16 strike that. Did Mr. Booker take responsibility
17 for that charge from the beginning, the Juanita
18 Greenburg incident?

19 A. Yes, with the exception of the use of a
20 knife.

21 Q. Okay. And in terms of investigating,
22 the video if I heard you is what you showed Mr.
23 Booker and he understood this is how he could get
24 convicted; is that correct?

25 A. That's correct.

1 Q. Now, was there any talk about going to
2 trial at all?

3 A. Oh, yes.

4 Q. Okay. And how close were you to going
5 to trial before the plea happened?

6 A. If I remember correctly, we had turned
7 down that original offer. They had served us with
8 the life notice. And Mr. Booker did not have all
9 that much to lose. If you think about it, he's not
10 an old guy, but 20 years is a long time to spend in
11 prison. He had already spent a significant amount
12 of time in prison previously. And so, you know,
13 life, 20 years, it wasn't all that much different.
14 So we were prepared, would have been prepared to go
15 to trial. I can't say we were prepared, but we
16 would have been prepared to go to trial.

17 Q. And after the sentence was -- did you
18 discuss with him any type of appeal or motion to
19 reconsider the sentence?

20 A. After the sentence was done? I didn't.
21 It was a negotiated plea. It was one of those
22 things where he wants to go forward. He had, in
23 fact, sent a letter to the prosecutor at one point
24 saying that he wanted to go forward on the plea.
25 So there was no -- we had negotiated that sentence.

1 We knew what it was going to be to begin with.
2 Wouldn't make a whole lot of sense to make a motion
3 to reconsider something that was negotiated. In
4 fact, I don't know that the Court could have
5 reconsidered a negotiated sentence. All they would
6 have been able to do is vacate the plea.

7 MR. MURPHY: Thank you, sir. That's
8 all I have.

9 CROSS-EXAMINATION

10 BY MS. CLEVELAND:

11 Q. Mr. Hilton, you just testified that Mr.
12 Booker sent a letter to the solicitor?

13 A. That's correct.

14 Q. Saying that he wanted to plea?

15 A. That's correct.

16 Q. Did you receive that letter as a part
17 of your Rule 5 materials?

18 A. I did. Very shortly after he sent it
19 the solicitor's office sent that over to me as
20 supplemental discovery.

21 Q. I have a copy of that letter. I would
22 like to approach and see if you recall if this is
23 the letter. May I approach the witness?

24 THE COURT: Yes, ma'am.

25 BY MS. CLEVELAND:

1 Q. (Hanging.)

2 A. This is the letter I received.

3 Q. And could you tell us briefly what that
4 letter discusses?

5 A. Well, I think the first sentence in it
6 says, you know, I would like to take your offer. I
7 think it was 25 years. And, you know, he sent that
8 to the prosecutor. I don't remember exactly what
9 it says, but basically says I don't want to put the
10 victims through a trial. I wasn't thinking
11 straight that night, that type of thing.

12 MS. CLEVELAND: Your Honor, at this
13 time I would like to move into evidence State's
14 Exhibit 1.

15 MR. MURPHY: No objection.

16 THE COURT: Without objection State's 1
17 is in evidence.

18 (STATE'S EXH. 1 marked for
19 identification.)

20 (STATE'S EXH. 1 in evidence.)

21 BY MS. CLEVELAND:

22 Q. One last question for you, Mr. Hilton.
23 Did you feel that it would be in Mr. Booker's best
24 interest to take the plea deal?

25 A. I did. I mean after watching the video

1 that we were provided you could see on the video
2 him flicking something and in his discussions with
3 me he was throwing a dollar on the table or a
4 couple of dollars on the table. And the witness
5 statement says he flashed a knife at me or pulled a
6 knife on me. And it was at that point when he
7 pulled a pistol and he took off out the bar. So
8 there was evidence that went both ways. However,
9 between 20 and 25 you are only talking about five
10 years if he went to trial and got convicted on that
11 armed robbery. I mean he would have been facing
12 life without parole.

13 So I did feel that the deal that we had
14 negotiated for him was certainly in his best
15 interest because if he would have gotten convicted
16 I mean he would have been facing life without
17 parole with no chance of ever getting out.

18 Q. Did he ever indicate to you that he
19 didn't understand anything that was going on at the
20 plea hearing or before that?

21 A. If he did we went through it again.
22 There was no question in my mind that he understood
23 what was going on. In fact, I think in my notes
24 that I created afterwards I indicated in those
25 notes how intelligent he was, and I don't say this

1 to minimize anybody, but, you know, on that public
2 defender contract you are not dealing with the
3 brightest, but believe it or not, Mr. Booker was
4 quite intelligent and is quite intelligent. And
5 he's got the prison accent now, but he's very
6 intelligent. And he knew what was going on then
7 and I think he knows what's going on now.

8 MS. CLEVELAND: Thank you, Mr. Hilton.
9 I have nothing further.

10 MR. MURPHY: Nothing further, Your
11 Honor.

12 THE COURT: Thank you very much, sir.

13 MR. MURPHY: That will be all. We
14 would rest, Your Honor.

15 THE COURT: All right. Ms. Cleveland,
16 anything further from the State with regards to Mr.
17 Booker's application?

18 MS. CLEVELAND: Yes, Your Honor. Mr.
19 Booker has failed to meet his burden here today.

20 THE COURT: Hold on. Let me hear
21 from --

22 MS. CLEVELAND: I don't have any
23 witnesses.

24 THE COURT: If you don't have anything
25 further I will hear from Mr. Murphy, then I will

1 hear from the State.

2 MR. MURPHY: Thank you. Very briefly,
3 Your Honor. There is a question of fact for you to
4 determine, whether or not Mr. Booker should have
5 received a mental evaluation. The testimony is Ms.
6 Ford started that process and it was never
7 completed on Mr. Hilton getting the case. I think
8 there's also a question of fact about whether or
9 not he would have pled. He testified that he
10 believed it was 65 percent eligibility rather than
11 the 85 percent eligibility which has been found to
12 be reason to overturn convictions in other case
13 law.

14 And then finally we would talk about
15 the lack of investigation. There was several
16 charges that were testified to, yet there's only
17 about 10 to 12 hours of time devoted to these
18 charges which you think would be deficient as a
19 matter of law looking at the seriousness of them.
20 Therefore, Your Honor, we would ask that the PCR be
21 granted.

22 THE COURT: Thank you, sir. Ms.
23 Cleveland.

24 MS. CLEVELAND: Yes, Your Honor. Mr.
25 Booker testified that he did have a competency

1 evaluation, that someone had interviewed him, maybe
2 lasted an hour. He said he met with the doctor
3 maybe two times. And there was no reason to doubt
4 that he was competent to move forward with the
5 trial or the plea. Also, Mr. Booker wrote this
6 prosecutor a letter, Mr. Charlie Condon, accepting
7 the plea saying he wished to go forward with the
8 plea. I think he testified in court that he was
9 satisfied with his services by Mr. Hilton, that he
10 had no issues with the services he received and Mr.
11 Hilton had done everything he had asked him to do.
12 And Mr. Hilton has testified today that he had no
13 reason to question the competency of Mr. Booker,
14 that Mr. Booker is an intelligent man, that he
15 believed he understood what he was doing then and
16 he understood what he was doing today.

17 Your Honor, Mr. Booker has failed to
18 meet his burden of establishing ineffective
19 assistance of counsel and we would ask that you
20 dismiss his application with prejudice.

21 THE COURT: All right. Thank you,
22 ma'am. I was just reviewing the transcript of the
23 plea colloquy and what went on during that time.
24 The question that you raise, Mr. Murphy, regarding
25 the parole eligibility issue, first I have Mr.

1 Hilton's testimony that they discussed that in
2 great detail, the fact that this was an 85 percent
3 crime and he indicated that Mr. Booker was aware
4 through their conversations.

5 During the plea it never seemed to come
6 up as far as talked about those numbers like 85
7 percent or 65 percent, 35 percent, whatever the
8 numbers are, that really never came up in the plea,
9 but Judge Jefferson did on page 11 of the plea, and
10 I will just quote her verbatim. She said, "Sir,
11 you may have discussed parole eligibility with your
12 lawyer or others, but until you are sentenced no
13 one can tell you when, if ever, you will be
14 eligible for parole and under what conditions. You
15 should assume that you will serve the entire time
16 in jail that you are sentenced to day for day. Do
17 you understand that?" And he says yes, he
18 understands that.

19 Later on she discusses with him and she
20 gets on to the subject as she goes through his
21 rights and talks about are you satisfied with your
22 lawyer's services. He says yes, ma'am. Answered
23 all of your questions? Yes, ma'am. Done
24 everything you asked or expected? Yes. Do you
25 have any complaints regarding his service? No,

1 ma'am. Has anyone promised you anything or held
2 out any hope of reward to cause you to plead
3 guilty? He says no, that no one has. Has anyone
4 used any threats, coercion, force, pressure,
5 intimidation or duress to cause you to plead
6 guilty. He indicates no, that this plea is freely
7 and voluntary. And then she asks have you
8 understood my questions, do you need to ask me
9 about anything that we have gone over? He says no.
10 Have your answers been truthful? Yes.

11 Everything indicates that -- I know
12 there was some concern as to whether or not him
13 getting an offer of the plea deal and then refusing
14 it. Then after that subsequently being served with
15 the life without parole notice, there is some form
16 or some threat of maybe coercion or pressure. I
17 don't think the law looks at it that way. The
18 State has a right to proceed with a life without
19 parole and plea offers are always, almost always,
20 tied into some reduction. There's always a
21 compromise to some degree. The State has the right
22 to serve him with that and did so. I don't think
23 that rises to any level of coercion.

24 And just getting back to the
25 ineffective assistance, it appears Mr. Hilton did

1 everything that he could do. If Mr. Booker had any
2 mental health issues or whatever, obviously those
3 need to be brought to his lawyer's attention. Mr.
4 Hilton indicated and, you know, you heard his
5 testimony regarding Mr. Bookers's intelligence.
6 That was going on about the time I was looking at
7 that letter he sent to the solicitor's office.
8 Clearly Mr. Booker is well read, speaks well and
9 writes very well and very coherently. I wasn't
10 there for the conversations, but Mr. Hilton
11 indicated there was nothing that indicated to him
12 that there was any mental health issue, that all
13 these conversations were clear and lucid and that
14 he understood and had dialogue back and forth.

15 Nothing caused him to be concerned
16 about Mr. Booker's mental health and, of course,
17 it's addressed by Judge Jefferson in the plea and
18 he indicates that during the plea that he did
19 attend some mental health counseling when he was a
20 younger child, but that he was currently not under
21 any mental health care, that he understood her
22 questions and that he didn't feel he had any
23 issues, and that was in response on page 9 where
24 she asked if you have been treated for the abuse of
25 alcohol, drugs or mental illness and he indicated

1 yes and started with the drugs and then he
2 discussed the mental health treatment when he was
3 younger. But again, all that was during that plea
4 colloquy.

5 I looked at the Strickland test and I
6 don't think that Mr. Booker has carried his burden
7 with regards to Mr. Hilton's services being
8 ineffective. It appears that he actually did a
9 pretty good job of talking the solicitor out of the
10 or negotiating him off the LWOP and reducing his
11 exposure from originally the 30 years. The
12 solicitor was looking at 25 to 30, down to the 25
13 negotiated. Then, of course, the letter that was
14 written to the solicitor, Mr. Booker seemed -- I'm
15 confident he would have liked to have had a lesser
16 sentence, but that wasn't offered and so he was
17 more than anxious to have the solicitor allow him
18 to accept that plea and go forward with that plea.

19 It appears that the plea was done
20 freely, voluntarily and intelligently. It appears
21 that from everything in the record that Mr.
22 Hilton's performance and service and representation
23 was not just well within the bounds of appropriate
24 legal representation, but it was above and beyond
25 that.

1 So I'm going to respectfully deny the
2 application. I don't think that Mr. Booker has
3 carried his burden.

4 MR. MURPHY: Thank you, Judge.

5 (These proceedings were concluded at
6 11:00 a.m., February 28, 2018, Charleston County,
7 South Carolina.)
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CERTIFICATE OF REPORTER

I, Ruth C. Weese, Registered Diplomate
Reporter 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.

Ruth C. Weese

Ruth C. Weese
Registered Diplomate
Reporter

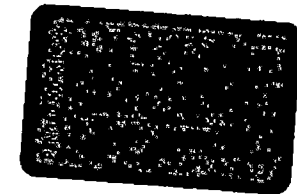
Dear Mr. Condon,

11-29-15

I'm writing you in regards to my pending charges and my wish to plead guilty and avoid having to put my victims and my family through a trial.

I'm wanting to accept full responsibility for my actions and I understand that I'll have to go to prison for the decisions that I've made.

Since I've been at the detention center I have pursued any and all means to receive help for my drug problem. I've been in the DAODAS program at the jail since April 7, 2014. I graduated the program Dec. 19, 2014. I chose to stay in the program to continue to learn how to stay sober and also to work on changing my way of thinking. Mr. Condon, my drug use since the age of 12 and the effects it



has on my thinking is the reason why I get in trouble. I realize now that my actions not only affect myself, my family, or my victims, my actions have an effect on the community as a whole and for that I'm truly sorry. I do not wish to spend the rest of my life in prison. I'd like to do my time and continue to work on myself so that one day I can be an asset to the community instead of a liability.

Mr. Condon, I was accepted into the Turning Leaf project twice and the SC Strong program to which, to my understanding, was rejected by you. I ask that you please reconsider me for one of these programs. Either one would be beneficial to teaching me life skills and how to transition back to the community.

and be a productive member of society. I know my track record doesn't show it but I'm not a lost cause. I am not a bad person. I'm a good person with a bad drug problem who has made some very dumb decisions.

I have enclosed letters from the DAODAS program and also from the GED teacher in the jail whom I've worked for helping others to prepare to get their GED.

Tutoring other inmates has been a great learning experience for me also and I'm very proud of the GED program as a whole.

I ask that you please read the letters enclosed and take into consideration the strides I've made to sincerely make a change for the better and reconsider your

Initial negotiated plea offer
of 25 yrs.

I'll be anticipating your
response. Thank you for
your time.

Sincerely,
Bill Bookin
Bill Bookin

SC
AG
AT
SOC
GS

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Bill Boyd Booker, II, #228462,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2017-CP-10-0280

ORDER OF DISMISSAL

FILED
2018 APR 13 PM 2:26
J. ARMSTRONG
CLERK OF COURT

This matter is before the Court by way of an application for post-conviction relief ("PCR") filed on January 19, 2017 by Bill Boyd Booker, II ("Applicant"). Respondent submitted its Return and Partial Motion to Dismiss on July 7, 2017. An evidentiary hearing into the matter was convened on Wednesday, February 28, 2018, at the Charleston County Courthouse. Applicant was present at the hearing and represented by Christopher L. Murphy, Esquire. Rasheeda Cleveland, Esquire of the South Carolina Attorney General's Office, represented the State.

Before the Court are the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the post-conviction relief application.

I. PROCEDURAL HISTORY

Bill Boyd Booker, II ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. In May 2014, the Charleston County Grand Jury indicted Applicant for armed robbery (2014-GS-10-2535) and strong arm robbery (2014-GS-10-2536). Applicant was subsequently indicted by the December 2015 term of the Charleston County Grand Jury for attempted armed

robbery (2015-GS-10-6798). Russell D. Hilton, Esquire, represented Applicant. Assistant Solicitor Charles Condon, Esquire, prosecuted the case. On January 27, 2016, Applicant pleaded guilty, pursuant to Alford¹, as indicted to all charges before the Honorable Deadra Jefferson. Pursuant to a negotiated sentence, Judge Jefferson sentenced Applicant to imprisonment for concurrent terms of twenty-five years for armed robbery, fifteen years for strong arm robbery, and twenty years for attempted armed robbery. Applicant did not appeal his conviction or sentence.

SUMMARY OF FACTS

On January 5, 2012, Applicant took possession of his mother's car without her permission. (Tr. pg. 12). Applicant's mother reported her vehicle missing. (Tr. p. 12).

On the same night, a robbery occurred at a James Island gas station at 9:15 p.m. (Tr. p. 12). According to the gas station attendant, Applicant bought a soda and when handing over the payment, also handed the attendant a note demanding money. (Tr. p. 12). The attendant did not initially see this note, causing Applicant to proceed to verbally demand for the money from the drawer. (Tr. p. 12). Applicant then reached into the cash drawer, took all the cash, and fled the gas station. (Tr. p. 12). The attendant was able to get the license plate of the car and informed law enforcement of the robbery. (Tr. p. 12). Law enforcement responded and chased after Applicant, until they lost Applicant in traffic. (Tr. p. 12).

The following morning, January 6, 2012 at 1:30 a.m., a second robbery occurred. (Tr. p. 12). Applicant displayed a knife to the bartender and made an attempt to rob a Mount Pleasant bar. (Tr. pp. 12-13). The bartender reciprocated his action, reaching for a firearm, which caused Applicant to leave the bar. (Tr. p. 13). A car matching the description of the mother's missing car was reported. (Tr. p. 13).

¹ North Carolina v. Alford, 25 U.S. 400 (1970).

Around 2:15 a.m., Applicant committed a third robbery, this time robbing a Mount Pleasant gas station. (Tr. p. 13). Applicant tried to purchase a candy bar from the attendant, handed the attendant cash for the candy bar, and once the cash drawer was opened, Applicant pointed a knife at the attendant and demanded she give him all the money. (Tr. p. 13). Applicant then reached into the drawer and took all the money inside and then fled the gas station in the same car reported missing. (Tr. p. 13).

The last robbery took place that morning around 3:30 a.m. at a John's Island gas station. (Tr. pp. 13-14). While paying for a drink, Applicant demanded the attendant give him all the money from the cash drawer. (Tr. p. 14). Applicant then reached into the drawer himself and took the money from the drawer and left the gas station in the same missing vehicle. (Tr. p. 14). All four incidents are backed by video surveillance from each location. (Tr. p. 14).

After the final robbery, the Charleston Police Department found the missing vehicle on Highway 17. (Tr. p. 14). Law enforcement began a traffic stop and Applicant sped off until he crashed further up the road. (Tr. p. 14). After the accident, Applicant continued to flee by foot and was missing from the scene for approximately an hour at which point he returned to the car where the cops interviewed him and he admitted to being the one in the surveillance footage. (Tr. pp. 14-15).

II. ALLEGATIONS

In his application, Applicant alleges is his being held in custody unlawfully on the following grounds:

1. Involuntary plea.
 - a. "Coerced into pleading by intimidation."
2. "Ineffective assistance of counsel."
 - b. "Wasn't advised of certain rights and certain issues were not raised."
3. "Prosecutorial Misconduct"

At the hearing, Applicant went forward on only one issue. Alleging the following grounds for relief:

1. Ineffective assistance of counsel.
 - a. "Told him he'd serve 65% only."
 - b. "Failure to investigate."
 - c. "Mental health issues."

III. SUMMARY OF RELEVANT TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. Plea Counsel Russell Hilton also testified.

On direct examination, Applicant testified that initially he was represented by Mary Ford but it was discovered that Ms. Ford also represented a victim, so she was relieved as counsel. Plea Counsel was then appointed to Mr. Booker's case. Applicant testified that there was never a hearing held relieving Ms. Ford but the matter was address^{ed} off the record. Applicant further testified that he met with Plea Counsel three times, and the last meeting occurred one week before trial and lasted "maybe a half hour." Applicant stated that during those meetings with Plea Counsel, they discussed the charges against him and the twenty-five year plea offer from the State. Applicant asserted that he was served with a life without parole ("LWOP") eligibility notice on Christmas Eve of 2014 or 2015.

Regarding Applicant's mental health issues, he testified that his prior counsel asked for a mental health evaluation, and he received one. Applicant testified that he had two meetings with the doctor, one lasting 1 ½ hours and then the second meeting lasted one hour. He stated that following those meetings he was on additional meds after the evaluation. Applicant also testified that he did not recall asking Plea Counsel about an evaluation. Applicant then asserted that he was not sure if he was competent during the present hearing or during his plea.

Applicant further testified that he understood the charges against him, and the possible

penalties associated with those charges. Applicant asserted, however, that it was not explained to him that he would have to do twenty-two out of twenty-five years. Applicant also stated that he did not know what Alford was or how it differs from a regular plea. Specifically, Applicant testified that Plea Counsel told him he would only have to serve 65% of the sentence. Applicant stated that he and plea counsel discussed the evidence and whether to go to trial or not, but he did not want a life sentence and pled guilty. Applicant contends that Plea Counsel did not investigate possible defenses despite him asking him to do so.

On cross-examination, Applicant testified that during the plea hearing, Judge Jefferson explained Alford to him. However, Applicant denied ever telling Judge Jefferson that he was satisfied with Plea Counsel's representation despite the transcript reflecting that he had. Applicant again asserted that he did not want a life sentence. Applicant also denied telling Judge Jefferson that he was not threatened or coerced into pleading guilty pursuant to Alford. Applicant was again shown the transcript which reflected that he had told Judge Jefferson that he was not.

On direct examination, Plea Counsel testified that he ^{was} appointed in May 2015 through a contract with indigent defense because there had been a conflict with the public defender who was originally appointed in the case. Regarding the number of times he and Applicant met, Plea Counsel testified that he met with Applicant 3-4 times. However, he recalled received ^{was} numerous letters from ^{Applicant} ~~him~~. Plea Counsel testified that Applicant was competent and "very intelligent."

Plea Counsel recalled Applicant being very vocal about the fact the he did not commit the armed robbery, and pleading under Alford to that charge. Plea Counsel further recalled that the other pleas were straight up pleas, and he did not contest at all. Plea Counsel testified that at the

time of Applicant's plea, he was unaware of ^{the bar's surveillance} video but, after watching the video, Applicant agreed he could see why it looks as if he had a weapon. Plea Counsel testified that prior to the plea, he entered into plea negotiations with the State. He recalled asking for twenty-five years after seeing the video, and the State eventually agreed. He further recalled there was never an offer for less time. Concerning Applicant's receipt of the notice of LWOP, Plea Counsel testified that it was due to Applicant's prior armed robberies.

Regarding his strategy and investigation, Plea Counsel testified that he did not talk to witnesses because Applicant admitted to performing the robbery, and the only issue was whether he was armed with a knife. Plea Counsel recalled there were multiple victims. Plea Counsel testified that he and Applicant had some discussions about going to trial because Applicant had turned down ^{the} original offer, and had been served with an LWOP notice. However, Plea Counsel testified that had Applicant decided he wanted to go to trial, he would have been prepared. Counsel further testified that he did not file or discuss a motion to reconsider because it was a negotiated sentence.

On cross examination, Plea Counsel testified that he believed it was in Applicant's best interest to plead because he was facing LWOP, and the State had a good case. Plea Counsel presented ^{ed} to the Court a letter from Applicant that was written to the Solicitor saying he wanted to plead guilty.² Plea Counsel further testified that Applicant never indicated that he did not understand anything, and was very intelligent. Plea Counsel recalled Applicant being one of the more intelligent clients he had.

IV. APPLICABLE LAW

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

² A copy of the letter was moved into evidence as State's Exhibit #1.

Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813.

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

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, Petitioner must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced Petitioner such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 (1985).

INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges Plea Counsel was ineffective in his representation of him. This Court finds that Applicant has not carried his burden of proof. The Court finds no deficiency on the part of counsel, nor prejudice therefrom. Plea Counsel did everything he could for Applicant, and did a good job negotiating off the potential LWOP sentence and reducing Applicant's exposure to it. In regard to Applicant's claim that Plea Counsel failed to investigate, this Court finds Plea Counsel's testimony to be credible regarding his reasoning for not conducting any investigation of the witnesses. This Court further finds Plea Counsel's testimony regarding Applicant's competency to be very credible. Moreover, the letter written by Applicant shows that he was indeed competent and coherent at the time of his plea, and is evidence that he very much wanted the plea offer. In addition, Applicant was not under any mental health care at the time of his plea.

Based upon this Court's observations of Applicant at the hearing and the near total inconsistency of his testimony with any other part of the record before this Court, the Court finds Applicant's testimony not credible. Conversely, the Court finds Counsel's testimony credible. Applicant knowingly, willingly, and voluntarily pled guilty with full awareness of the case against him. Accordingly, Applicant's request for relief by way of this allegation is **DENIED**.

III. CONCLUSION

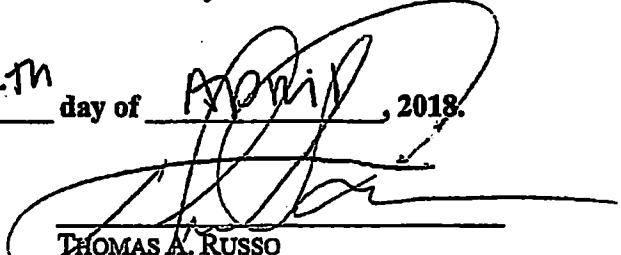
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 4th day of April, 2018.


 THOMAS A. RUSSO
 Presiding Judge
 Ninth Judicial Circuit

Florence, South Carolina

FGN20140100152

WITNESSES

Mt. Pleasant Police Department

AGENCY CASE NUMBER

2014P000136

ARREST WARRANT NUMBER

2014A1020900002

DATE OF ARREST

January 6, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: MAY 13 2014

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1002535

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

May Term 2014

THE STATE

vs.

BILL BOYD BOOKER II

DOB: [REDACTED]

W/M

Indictment for

Armed Robbery

FILED

5/15/2014 9:10:34 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

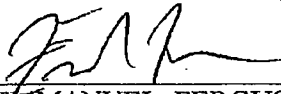
INDICTMENT

At a Court of General Sessions, convened on May 12, 2014 the Grand Jurors of Charleston County^a present upon their oath:

Armed Robbery

That on or about January 6, 2014, in Charleston County, South Carolina, the Defendant, Bill Boyd Booker II, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Shantasia Lemon with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(A) 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.



EMMANUEL FERGUSON
ASSISTANT SOLICITOR

CMC/0236261/20140100153
WITNESSES

Mt. Pleasant Police Department

AGENCY CASE NUMBER
2014P000138

ARREST WARRANT NUMBER
2015-GS-10-06798

DATE OF ARREST

01/06/2014

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

Date: DEC 8 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-06798

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
DECEMBER TERM 2015

THE STATE

VS.

BILL BOYD BOOKER, II
W/M [REDACTED]

Indictment for

ATTEMPTED ARMED ROBBERY

SC Code: § 16-11-0330(B)
CDR Code: 0026

FILED

12/18/2015 2:28:07 PM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

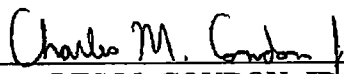
INDICTMENT

At a Court of General Sessions, convened December 2015, the Grand Jurors of Charleston County present upon their oath:

ATTEMPTED ARMED ROBBERY

That on or about January 6, 2014, in Charleston County, South Carolina, the Defendant, Bill Boyd Booker II, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did attempt to take and carry away goods and/or monies from the person or immediate presence of Laura Connors with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(B) 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.



CHARLES M. CONDON, JR.
ASSISTANT SOLICITOR

FGN20140100154

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1400259

ARREST WARRANT NUMBER

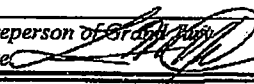
K740104

DATE OF ARREST

January 6, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 

MAY 12 2014

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1002536

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

May Term 2014

THE STATE

vs.

BILL BOYD BOOKER II

DOB: 1977-07-03

W/M

Indictment for

Strong Arm Robbery

FILED

5/15/2014 9:10:34 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

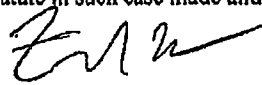
INDICTMENT

At a Court of General Sessions, convened on May 12, 2014 the Grand Jurors of Charleston County present upon their oath:

Strong Arm Robbery

That in Charleston County, South Carolina, on or about January 6, 2014, the Defendant, BILL BOYD BOOKER II, did take and carry away personal property from the person or presence of Rakem Alston, by means of force, threats or intimidation and with the intent to deprive Rakem Alston, permanently of such property. Such property is described as: fifty-five dollars in U.S. Currency; This is in violation of the Common Law of South Carolina and Section 16-11-325, of the Code of Laws of South Carolina (1976) as amended.

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



EMMANUEL FERGUSON
ASSISTANT SOLICITOR

FGN20140100157

WITNESSES

Charleston County Sheriff

AGENCY CASE NUMBER

2014000795B

ARREST WARRANT NUMBER

2014A1010100001

DATE OF ARREST

January 6, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

MAY 12 2014

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1002537

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

May Term 2014

THE STATE

vs.

BILL BOYD BOOKER II

DOB: 1977-07-03

W/M

Indictment for

Strong Arm Robbery

FILED

5/15/2014 9:10:34 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

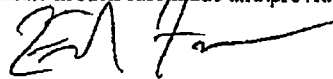
INDICTMENT

At a Court of General Sessions, convened on May 12, 2014 the Grand Jurors of Charleston County present upon their oath:

Strong Arm Robbery

That in Charleston County, South Carolina, on or about January 5, 2014, the Defendant, BILL BOYD BOOKER II, did take and carry away personal property from the person or presence of Casey Culbertson, by means of force, threats or intimidation and with the intent to deprive Casey Culbertson, permanently of such property. Such property is described as: one hundred dollars in U.S. Currency; This is in violation of the Common Law of South Carolina and Section 16-11-325, of the Code of Laws of South Carolina (1976) as amended.

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



EMMANUEL FERGUSON
ASSISTANT SOLICITOR