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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

Honorable Letitia H. Verdin, Circuit Court Judge

EDDIE BALLENGER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-001002

APPENDIX

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

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1000 Assembly Street
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE)	2014-GS-23-09952
	)	2014-GS-23-09953
	)	2014-GS-23-09954
	)	2014-GS-23-09958

STATE OF SOUTH CAROLINA,)	
)	
VS.	)	TRANSCRIPT OF RECORD
)	
EDDIE BALLENGER,)	
DEFENDANT.	)	ORIGINAL

October 3 and 4, 2016
 Greenville, South Carolina

B E F O R E:

THE HONORABLE D. GARRISON HILL, JUDGE.

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

R. ASHER WATSON, ESQ.
 Assistant Solicitor

SCOTT D. ROBINSON, ESQ.
 Attorney for the Defendant

HOLLIE M. JENKINS
 Circuit Court Reporter

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits introduced.)

PROCEEDINGS

1
2 THE CLERK: Your Honor, this is indictment
3 2014-GS-23-09952, Eddie Ballenger indicted for attempted
4 murder and possession of a weapon during the commission of a
5 violent crime, pleading to attempted murder and possession
6 of a weapon during the commission of a violent crime.

7 And 2014-GS-23-09953, indicted for attempted murder
8 and possession of a weapon during the commission of a
9 violent crime, pleading to possession of a weapon during
10 the commission of a violent crime and attempted murder.

11 2014-GS-23-09954, indicted for attempted murder and
12 possession of a weapon during the commission of a violent
13 crime, pleading to attempted murder and possession of a
14 weapon during a violent crime.

15 And 2014-GS-23-09958, indicted for attempted murder
16 and possession of a weapon during the commission of a
17 violent crime, pleading to attempted murder and possession
18 of a weapon during a violent crime.

19 And these are all true billed.

20 THE COURT: Thank you.

21 THE CLERK: Please raise your right hand.

22 WHEREUPON,

23 EDDIE BALLENGER,

24 after first having been duly sworn, testified as follows:

25 THE COURT: You're Eddie Ballenger?

1. DEFENDANT BALLENGER: Yes, sir.

2 THE COURT: And my sheet says you're 33; is that
3 right?

4 DEFENDANT BALLENGER: Yes, sir.

5 THE COURT: How far did you go in school,
6 Mr. Ballenger?

7 DEFENDANT BALLENGER: Ninth grade.

8 THE COURT: What kind of work do you do?

9 DEFENDANT BALLENGER: I work at Land Storm [phonetic].

10 THE COURT: Where?

11 DEFENDANT BALLENGER: Land Storm. It's a packing
12 company.

13 THE COURT: Okay. Have you had enough time to talk
14 to Mr. Robinson about your case?

15 DEFENDANT BALLENGER: Yes, sir.

16 THE COURT: Are you satisfied with his services as
17 your lawyer?

18 DEFENDANT BALLENGER: Yes, sir.

19 THE COURT: Do you understand the maximum sentence
20 you face for these charges, and the elements of the crime
21 the State would have to prove beyond a reasonable doubt to
22 convict you of each one?

23 DEFENDANT BALLENGER: Yes, sir.

24 THE COURT: Are you -- do you have any physical,
25 mental, or emotional condition that might keep you from

1 understanding what's happening here today?

2 DEFENDANT BALLENGER: No, sir.

3 THE COURT: Are you pleading guilty because you are
4 guilty, sir?

5 DEFENDANT BALLENGER: Yes, sir.

6 THE COURT: Has anyone threatened you or put any
7 pressure on you to get you to come to court today and
8 enter your plea?

9 DEFENDANT BALLENGER: No, sir.

10 THE COURT: Are you doing so of your own free choice
11 and will?

12 DEFENDANT BALLENGER: Yes, sir.

13 THE COURT: Did you go over with Mr. Robinson this
14 three-page acknowledgement of rights form?

15 DEFENDANT BALLENGER: Yes, sir.

16 THE COURT: Did you understand every question on the
17 form, and answer each question truthfully?

18 DEFENDANT BALLENGER: Yes, sir.

19 THE COURT: Do you understand at your trial, if you
20 had one before a jury, you would be presumed innocent?
21 You wouldn't have to prove yourself innocent or prove
22 yourself not guilty.

23 DEFENDANT BALLENGER: Yes, sir.

24 THE COURT: And you could see and hear the witnesses.
25 You could bring your own witnesses in using the subpoena

1 power of the Court. You could confront the evidence
2 against you. You would be entitled to have a unanimous
3 verdict of the jury.

4 The State would bear the burden of proof exclusively.
5 And they would have to prove each element of the crime
6 beyond a reasonable doubt to convict you. You could
7 testify at your trial, present any defenses you may have,
8 and challenge the State's case, and have your lawyer
9 assist you.

10 Do you understand those things?

11 DEFENDANT BALLENGER: Yes, sir.

12 THE COURT: And, at your trial, you could challenge
13 or contest any statement you might have given, searches
14 that might have been made, or testing that was done or
15 should have been done.

16 Do you understand all that?

17 DEFENDANT BALLENGER: Yes, sir.

18 THE COURT: You have to give up all those rights to
19 plead guilty. Do you still want to plead guilty knowing
20 that?

21 DEFENDANT BALLENGER: Yes, sir.

22 THE COURT: All right. Listen carefully. The
23 State's going to set forth the facts of the case. I'm
24 going to ask you to -- if you agree or disagree with
25 Mr. Watson's brief summary.

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MR. WATSON: Thank you, Your Honor.

May it please the Court.

Again, this is a deferred sentence matter. There's a co-defendant who's coming up right after on the trial docket and --

THE COURT: Okay.

MR. WATSON: -- so we ask for deferred sentencing.

As to the allegations. The allegations are as follows: That on August 16, 2014, within the Greer city limits in the county of Greenville, this Defendant was the front seat passenger in a vehicle driven by Tony Bruton. This Defendant shot from inside the vehicle several times at a number of victims. Those victims are here in court today.

This was witnessed by a Greer PD police officer and -- actually, on scene and saw the muzzle flash at nighttime of this occurring. A vehicle chase ensued where this officer chased the vehicle and the driver. Bruton stopped the car in the middle of the road and fled the scene, to which he was apprehended, and told Greer PD that this Defendant fired shots for unknown reasons.

This Defendant was, also, detained and informed Greer PD that the driver, Bruton, who is his cousin, was engaged in an earlier altercation. And that Bruton told him the -- this Defendant to shoot the victims. The gun was

1 recovered and the Defendant admits to shooting at the
2 victims.

3 This Defendant, also, claims that Bruton provided the
4 gun to him to shoot at the victims. The first set of
5 victims, who are the Calderons, including Juan Calderon,
6 Karen Onofre, and their children, Alexander C. and
7 Juan C. , III, were walking their two kids, one of
8 which was in a stroller. They informed law enforcement
9 that the driver was driving erratically. And it was in
10 this first encounter just the driver. And there was some
11 words exchanged at that point.

12 Later on, the driver picked up this Defendant and
13 circled back around to where the victims were walking down
14 another street on Line Street on the side within
15 Greenville County wherein several shots were fired at the
16 victims. The victims were on the sidewalk in front of
17 another set of victims, who are, also, here in court
18 today.

19 The second set of victims were on their porch when
20 the shots were fired. At least, one shot came between two
21 of the victims that were sitting on the porch. They had
22 nothing to do with this incident and were just on the
23 porch when this occurred. Fortunately, none of the
24 victims were struck.

25 It's our understanding Mr. Ballenger spent 47 days in

1 jail.

2 And he does have a record that I can state at the
3 time you deem appropriate, Your Honor.

4 THE COURT: Thank you, Mr. Watson.

5 All right. Mr. Turner [sic], is that what happened,
6 sir?

7 DEFENDANT BALLENGER: Yes, sir.

8 THE COURT: Okay. I find there's a factual basis for
9 the plea. It's been entered into freely and voluntarily.

10 And the sentence is deferred.

11 Okay. Thank you very much.

12 (WHEREUPON, the proceedings were concluded and
13 were reconvened on Tuesday, October 4, 2016.)

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1 down a job at this packaging place he talked about. He
2 has a fiancée. He has a child.

3 How old is the child?

4 DEFENDANT BALLENGER: Seven.

5 MR. ROBINSON: Seven years old.

6 And he did cooperate in this matter. He probably
7 wasn't -- you know, it wasn't -- it wasn't perfect you
8 could tell by the -- by the -- by how he testified. But I
9 will say he gave an audio confession. He, also, gave a
10 written confession almost immediately to the officers.

11 Judge, we'd ask for a split sentence in this case
12 to -- to -- and Eddie -- Eddie is very remorseful about all
13 this happening. It's just -- it just -- it's what happens
14 when someone gets a gun. And just -- there's no excuse for
15 it. He understands that.

16 But we'd ask for some leniency, if the Court sees
17 fit, based on his cooperation that he gave in this case.

18 And -- but Eddie would like to address the Court as
19 well, Your Honor.

20 THE COURT: Yes, sir, Mr. Ballenger.

21 DEFENDANT BALLENGER: I know I done something wrong
22 by me getting in that car. And I want to apologize to
23 every one of them. I'm very sorry, you know. And I
24 didn't mean for that to happen. And I ain't never in my
25 life harmed nobody. I just want to tell everybody I'm

1 sorry for my actions. I wish I could take it back and I
2 wouldn't have never did it, I swear to God.

3 THE COURT: All right, sir. Thank you.

4 MR. ROBINSON: Thank you, Judge.

5 THE COURT: Thank you. All right.

6 MR. WATSON: Your Honor, we have a shoplifting from
7 2007; two counts of forgery from 2008; possession of meth
8 or cocaine base from 2013. Those were the ones that we
9 had used in testimony.

10 THE COURT: How much time did he spend in jail?

11 MR. WATSON: I can get that number, Your Honor.

12 THE COURT: Okay.

13 MR. ROBINSON: How much time did you spend in jail?
14 Do you know?

15 DEFENDANT BALLENGER: About three months.

16 MR. WATSON: If I recall correctly, I believe it was
17 47 days.

18 (Pause.)

19 MR. WATSON: I was correct, Your Honor. 47 days.

20 THE COURT: All right. Thank you.

21 So the weapons charge is a mandatory five-year
22 concurrent sentence, not suspendible.

23 So the sentence on the attempted murder is --
24 2014-GS-23-9952 is 10 years, suspended to five years.
25 Credit for time served.

1 On possession of a weapon, charge 2014-GS-23-9952A,
2 is five years, concurrent.

3 And case 9953 is 10 years, suspended to five years.
4 Credit for time served. The weapon charge that
5 accompanies that, 2014-GS-23-9953, is five years,
6 concurrent.

7 Attempted murder, 9954, is 10 years, suspended to
8 five years, concurrent. 2014-GS-23-9954A is five years,
9 concurrent.

10 And the attempted murder, 2014-GS-23-9958, is 10
11 years, suspended to five years. And the weapon charge is
12 five years concurrent, 9958A.

13 And those are all concurrent.

14 I'll give you credit for time served.

15 I'm taking into account your cooperation. But you
16 understand what an amazingly dangerous thing this was,
17 especially with children.

18 DEFENDANT BALLENGER: Yes, sir.

19 THE COURT: Okay.

20 *****END OF TRANSCRIPT OF RECORD*****
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CERTIFICATE OF REPORTER

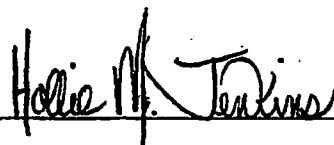
STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 3rd and 4th days of October, 2016.

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

February 14, 2017



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

0099524

WITNESSES

Roman Wilson

Greer Police Department

8/18/2014

DA 11/25/14

ARREST WARRANT NUMBER

2014A2320500683 as to Count I

DIRECT PRESENTMENT AS TO COUNT II

2014GS2309952A

ACTION OF GRAND JURY

TRUE BILL

Ricky T. Hall

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-23-
LCM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November

TERM 2014

THE STATE

vs.

EDDIE BALLENGER

Indictment for

3410 and 0549

**ATTEMPTED MURDER and POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME**

VIOLATION §16-03-0029 and §16-23-0490

**ENTERED
ACCT
11/25/14**

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 ATTEMPTED MURDER and POSSESSION OF A WEAPON
 DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on

NOV 23 2014

the Grand Jurors of Greenville

County present upon their oath:

COUNT I — ATTEMPTED MURDER


That EDDIE BALLENGER did in Greenville County, on or about the 16th day of August 2014, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Karen Onofre. This is in violation of §16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT II — POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That EDDIE BALLENGER did in Greenville County, on or about the 16th day of August 2014, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit:

ATTEMPTED MURDER. This is in violation of §16-23-490 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.


 SOLICITOR

BAR # 72742

WITNESSES

Roman Wilson

Greer Police Department

8/18/2014

DA 11/25/14

ARREST WARRANT NUMBER

2014A2320500685, 2014A2320500690

**ACTION OF GRAND JURY
TRUE BILL**

Ricky T. Hall

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-23-009953

LCM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November

TERM 2014

THE STATE

vs.

EDDIE BALLENGER

Indictment for

3410 and 0549

**ATTEMPTED MURDER and POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME**

VIOLATION §16-03-0029 and §16-23-0490

**ENTERED BY
ACCT.**

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 ATTEMPTED MURDER and POSSESSION OF A WEAPON
 DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **NOV. 25 2014** the Grand Jurors of Greenville
 County present upon their oath:

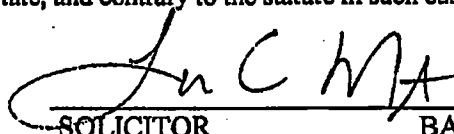
COUNT I — ATTEMPTED MURDER

That EDDIE BALLENGER did in Greenville County, on or about the 16th day of August 2014, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Juan Calderon, III. This is in violation of §16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT II — POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That EDDIE BALLENGER did in Greenville County, on or about the 16th day of August 2014, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: ATTEMPTED MURDER. This is in violation of §16-23-490 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.



SOLICITOR

BAR # 72742

009954

DOCKET NO. 2014-GS-23-
LCM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November TERM 2014

THE STATE

vs.

EDDIE BALLENGER

WITNESSES

Roman Wilson

Greer Police Department

8/18/2014

DA 11/25/14

ARREST WARRANT NUMBER

2014A2320500686 as to Count I

DIRECT PRESENTMENT as to Count II

2014GS2309954A

**ACTION OF GRAND JURY
TRUE BILL**

Ridg T. Hall

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

3410 and 0549

**ATTEMPTED MURDER and POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME**

VIOLATION §16-03-0029 and §16-23-0490

**ENTERED
11/25/14**

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED MURDER and POSSESSION OF A WEAPON
DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on 157 2 5 2014 the Grand Jurors of Greenville

County present upon their oath:


COUNT I — ATTEMPTED MURDER

That EDDIE BALLENGER did in Greenville County, on or about the 16th day of August 2014, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Alexander Calderon. This is in violation of §16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT II — POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That EDDIE BALLENGER did in Greenville County, on or about the 16th day of August 2014, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: ATTEMPTED MURDER. This is in violation of §16-23-490 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.



SOLICITOR

BAR # 72742

WITNESSES

Roman Wilson

Greer Police Department

DOA: 8/18/2014 BM DOB: 7/1983

SSN: [REDACTED]

DA 11/25/14

ARREST WARRANT NUMBER

2014A2320500684 and DIRECT PRESENTMENT

2014652309958A

**ACTION OF GRAND JURY
TRUE BILL**

Ricky T. Neal

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-23-009958

LCM

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November TERM 2014

THE STATE

vs.

EDDIE BALLENGER

Indictment for

3410 and 0549

**ATTEMPTED MURDER and POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME**

VIOLATION §16-03-0029 and §16-23-0490

**ENTERED
ACCT. 11/25/14**

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 ATTEMPTED MURDER and POSSESSION OF A WEAPON
 DURING THE COMMISSION OF A VIOLENT CRIME

NOV 25 2014

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

COUNT I — ATTEMPTED MURDER

That EDDIE BALLENGER did in Greenville County, on or about the 16th day of August 2014, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Juan Calderon. This is in violation of §16-03-0029 of the South Carolina Code of Laws (1976) as amended.

COUNT II — POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That EDDIE BALLENGER did in Greenville County, on or about the 16th day of August 2014, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: ATTEMPTED MURDER. This is in violation of §16-23-490 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.


 SOLICITOR

BAR # 72742

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS. Eddie Ballenger

INDICTMENT/CASE#: 2014GS2309952
A/W#: 2014A2320500683
Date of Offense: 8/16/2014
S.C. Code § : 16-03-0029
CDR Code #: 3410

AKA:
Race: BLACK Sex: M Age: 33
DOB: -1983 SS#:
Address:
City, State, Zip: Greer, SC 29651-4254
DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Murder/Attempted Murder

CONVICTED OF or PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Marchant, Lucas SC Bar#
Eddie D. Ballenger Defendant
Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of 5 days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$ 3.75. TOTAL \$ 128.75

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Paul B. Wilkerson
Court Reporter:
SCCA/217 (07/2016)

Presiding Judge
Judge Code: 2138
Sentence Date: 10/3/10 Sent Date 10/4/16

Sentence deferred

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Eddie Ballenger

AKA:

Race: BLACK Sex: M Age: 33

DOB: [redacted]-1983 SS#: [redacted]

Address: [redacted]

City, State, Zip: Greer, SC 29651-4254

DL#: [redacted] SID#: [redacted]

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or death

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS2309952A

A/W#: 2014GS2309952A

Date of Offense: 8/16/2014

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

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

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST: [Signature] 10/006 SC Bar# [redacted] Defendant [Signature] Attorney for Defendant [Signature] SC Bar# [redacted]

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. # 9952

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

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

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

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

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

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

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

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

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

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

3% to County (if paid in installments) \$ 5.00

TOTAL \$ 3.75

PTUP _____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmnts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Paul B. Wickens

Court Reporter: Jenkins

SCCA/217 (07/2016)

Presiding Judge _____

Judge Code: 2138 Sent. Date

Plea Sentence Date: 10/3/16 10/4/16

STATE OF SOUTH CAROLINA)
 COUNTY OF Greenville)
 STATE VS.)
 Eddie Ballenger)
 AKA:)
 Race: BLACK Sex: M Age: 33)
 DOB: [REDACTED]-1983 SS#: [REDACTED])
 Address: [REDACTED])
 City, State, Zip: Greer, SC 29651-4254)
 DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014 G-32309953
 A/W#: 2014-2320500690-652309953A
 Date of Offense: 8/16/2014
 S.C. Code § : 16-23-0490
 CDR Code #: 0549

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury, _____ (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] [Signature] [Signature] [Signature]
 Merchant, Lucas SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: # 9952
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 49 days. GK

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
 Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75
TOTAL		\$ 128.75

_____ days/hours Public Service Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____
 Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Paul B. Wickens Presiding Judge Man Li
 Court Reporter: Jenkins Judge Code: 2138 Sent. date: 10/4/16
 SCCA/217 (07/2016) Sentence Date: 10/3/2016

STATE OF SOUTH CAROLINA)
 COUNTY OF Greenville)
 STATE VS.)
Eddie Ballenger)
 AKA: _____)
 Race: BLACK Sex: M Age: 33)
 DOB: 08-01-1983 SS#: _____)
 Address: _____)
 City, State, Zip: Greer, SC 29651-4254)
 DL#: _____ SID#: _____)

INDICTMENT/CASE#: 2014GS2309954
 A/W#: 2014A2320500686
 Date of Offense: 8/16/2014
 S.C. Code § : 16-03-0029
 CDR Code #: 3410

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Murder/Attempted Murder

CONVICTED OF or PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 10/10/16 Eddie D. Ballenger [Signature] 65357
Marahant, Lucas SC Bar# 75742 Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: # 9952
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. 47 days 6-10

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
 Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
 Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 Set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ <u>3.75</u>

TOTAL \$ 138.75

Appointed PD or appointed other counsel,
 Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

Clerk of Court/ Deputy Clerk Paul B. Wickham
 Court Reporter: Jenkins
 SCCA/217 (07/2016)

Presiding Judge Man li
 Judge Code: 2138 Sent. Date: 10/4/16
 Sentence Date: 10/3/16

COUNTY OF Greenville
STATE VS. Eddie Ballenger

INDICTMENT/CASE#: 2014GS2309954A
A/W#: 2014GS2309954A
Date of Offense: 8/16/2014
S.C. Code § : 16-23-0490
CDR Code #: 0549

AKA:
Race: BLACK Sex: M Age: 33
DOB: -1983 SS#:
Address:
City, State, Zip: Greer, SC 29651-4254
DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
ATTEST: Marchant, Lucas SC Bar# 101005 Defendant Attorney for Defendant 6535 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: # 9952
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 49 days
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$.

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

TOTAL \$
Clerk of Court/ Deputy Clerk Paul B. Wickens
Court Reporter
SCCA/217 (07/10/16)

Presiding Judge
Judge Code: 2138 Sent. Date:
Plea Sentence Date: 10/3/16 10/4/16

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville
STATE VS.

Eddie Ballenger

AKA:

Race: BLACK Sex: M Age: 33

DOB: 08-11-1983 SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Greer, SC 29651-4254

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

In disposition of the said indictment comes now the Defendant who was TO: Murder/Attempted Murder

Date of Offense: 8/16/2014
S.C. Code § : 16-03-0029
CDR Code #: 3410

SENTENCE SHEET

[] CONVICTED OF or [] PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
[] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-45

The charge is: [] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [x] Recommendation by the State.

ATTEST: [Signature] SC Bar# [REDACTED] Defendant [Signature] Attorney for Defendant [Signature] SC Bar# [REDACTED]

WHEREFORE, the Defendant is committed to the [x] State Department of Corrections, [] County Detention Center,
for a determinate term of 10 days/months/years or [] under the Youthful Offender Act not to exceed [] years
and/or to pay a fine of \$ [] ; provided that upon the service of 5 days/months/years and/or payment
of \$ [] ; plus costs and assessments as applicable*; the balance is suspended with probation for []

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

[x] CONCURRENT or [] CONSECUTIVE to sentence on: # 9952
[] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 49 days.

[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered PTUP [] days/hours Public Service Employment
Total: \$ [] plus 20% fee: \$ []

Payment Terms: [] Set by SCDPPPS [] Obtain GED [x] Attend Voc. Rehab. or Job Corp. []

Recipient: [] May serve W/E beginning [] Substance Abuse Counseling []

*Fine: [] Random Drug/Alcohol testing [] Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ [] beginning []

§ 14-1-206 (Assessments 107.5 %) \$ [] § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ [] § 56-5-2995 (DUI Assessment) \$12 \$ []

§ 56-1-286 (DUI Breath Test) \$25 \$ [] Proviso 61.6 (Public Def/Probation) \$500 \$ []

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00 § 14-1-213 (Drug Court Surcharge) \$150 \$ []

§ 50-21-114(BUI Breath Test Fee) \$50 \$ [] § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ []

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 130.75

[] Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk: Paul B. Wilkinson
Court Reporter: Jenkins
SCCA/217 (07/20/16)

Presiding Judge: [Signature]
Judge Code: 2138
Sentence Date: 10/3/16
Sent Date: 10/4/16

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS. Eddie Ballenger

AKA:
Race: BLACK Sex: M Age: 33
DOB: -1983 SS#:
Address:
City, State, Zip: Greer, SC 29651-4254
DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or death

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS2309958A
A/W#: 2014GS2309958A
Date of Offense: 8/16/2014
S.C. Code § : 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Merchant, Lucas SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to State Department of Corrections, County Detention Center,
for a determinate term of 5 days/months/years under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ca, 3% to County (if paid in installments) \$500.

TOTAL \$ 128.75

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Paul B. Wickanume
Court Reporter: Jenkins plea
SCCA/217 (07/2016)

Presiding Judge Judge Code: 2138 Sent Date 10/4/16
Sentence Date: 10/3/16

FORM 5

STATE OF SOUTH CAROLINA)
County of Greenville County)

IN THE COURT OF COMMON PLEAS

Eddie D. Ballenger SCDC # 283547

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

v.)

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

2017-CP-23-308

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKEN
2017 JAN 9 PM 4:45

INSTRUCTIONS TO 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 Kirkland Reception and Evaluation Center
4344 Broad River Rd Columbia SC 29210
2. Name and location of Court which imposed sentence Greenville County
3. Name(s) of co-defendant(s) (if any) Tony Bruton
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) none

- (b) _____
- (c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) Oct 3 2016 guilty 5 years sentence
- (b) _____
- (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty yes
- (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?

yes

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

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

- i. Greenville County
- ii. _____
- iii. _____

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

- i. Greenville County
- ii. _____
- iii. _____

(c) the date of each such result:

- i. guilty 5 years
- ii. _____
- iii. _____

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

- i. no
- ii. _____
- iii. _____

9. If you answered Ano to (7), state your reasons for not so appealing:

- (a) Sentence reduced

(b) _____

(c) _____

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

(a) misrepresentation by attorney

(b) _____

(c) _____

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

(a) not counseling

(b) _____

(c) _____

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

(a) any petition in a State Court under South Carolina Law? yes

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? yes

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? was not counseling Righth

(d) any other petitions, motions or applications in this or any other Court? _____

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. Greenville County

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. none

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. no ne

ii. _____

iii. _____

iv. _____

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

i. none

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?

none

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

(a) which grounds have been presented:

i. none

ii. _____

iii. _____

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

i. none

ii. _____

iii. _____

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

lower sentence

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

no

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Greenville County)

VERIFICATION

I, Eddie D. Ballenger, 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.

Eddie D. Ballenger

SWORN to and subscribed before me this 19 day of December, 2016.

Melissa Spring (L.S.)
Notary Public

My Commission Expires: December 1, 2025

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

I, Eddie D. Ballenger, 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.

Eddie D. Ballenger
Applicant

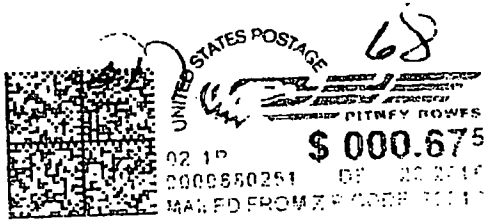
SWORN or affirmed to and subscribed before me this
19 day of December, 2016

Melissa Apia
Notary Public

My Commission Expires: December 1, 2025

Eddie D. Ballenger SCDC # 283547
Kirkland Reception and Evaluation Center F-3 Room 246
1344 Broad River rd
Columbia S.C. 29210

COLUMBIA
SC 29210
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2017-CP-23-00093

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)	THIRTEENTH JUDICIAL CIRCUIT
)	
Eddie Ballenger, #283547,	)	2017-CP-23-0093
Applicant,)	
	)	RETURN AND MOTION FOR
v.	)	MORE DEFINITE STATEMENT
)	
State of South Carolina,)	
Respondent.)	
)	

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on January 9, 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In November 2014, the Greenville County Grand Jury indicted Applicant for four counts of attempted murder and four counts of possession of a weapon during a violent crime (2014-GS-23-9952, -9953, -9954, -9958). Scott D. Robinson, Esquire represented Applicant. Assistant Solicitor R. Asher Watson, Esquire prosecuted the case. On October 3, 2016, Applicant pleaded guilty as indicted to all charges before the Honorable D. Garrison Hill. Judge Hill sentenced Applicant to imprisonment for concurrent terms of ten years suspended provided upon the service of five years for each count of attempted murder and five years for each count of possession of a weapon during a violent crime. Applicant did not appeal his conviction or sentence.

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

II.

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

1. Ineffective Assistance of Counsel
 - a. "Misrepresentation by attorney"
 - b. "Not counseling"

III.

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 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 v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 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.

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

IV.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(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.

V.

Respondent also hereby moves for a more definite statement. 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.

VI.

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

VII.

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

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

DESHAWN H. MITCHELL
Assistant Attorney General

By: DJ/m
ATTORNEYS FOR RESPONDENT

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

June 23, 2017

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
)
)
 EDDIE BALLENGER 283547)
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)
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 Applicant,)
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 vs)
)
 STATE OF SOUTH CAROLINA,)
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 Respondent.)
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IN THE COURT OF COMMON PLEAS

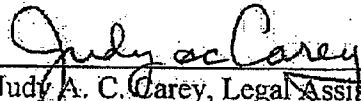
2017-CP-23-0093

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

Susannah C. Ross, Esquire
 Ross & Enderlin, PA
 330 East Coffee Street
 Greenville SC 29601

DATED this 23rd day of June, 2017.



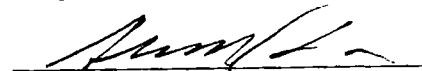
 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	CASE NO. 2017-CP-23-0093
COUNTY OF GREENVILLE)	
)	
EDDIE BALLENDER)	
APPLICANT,)	
	)	AMENDED APPLICATION
VS.)	
)	
THE STATE OF SOUTH)	
CAROLINA)	
RESPONDENT.)	

FILED OCT 31 PM 4:41
 PUBLIC ACCESS

This matter comes before the Court by way of application of post conviction relief filed January 9, 2017, alleging ineffective assistance of trial counsel. A Return and Motion for a More Definite Statement was made on June 23, 2017. This amended application is intended to incorporate the original application and clarify the allegations of ineffective assistance of counsel while reserving the right to amend during or after the hearing to conform to the evidence presented. The Applicant alleges ineffective assistance of trial counsel for the failure to: (1) advise effectively by pushing a guilty plea when co-defendant was not convicted at trial; (2) research mental health history of depression and borderline of intellectual function for mitigation; (3) investigate facts and adequately prepare for trial; and (4) communicate and explain discovery and plea offers.

Respectfully submitted,



Susannah Ross
 Attorney for the Applicant
 330 E. Coffee St,
 Greenville, SC 29601
 (864) 242-0029

Greenville, South Carolina
 This 21 day of October 2017

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
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There were no exhibits introduced.

P R O C E E D I N G S

1
2
3 (WHEREUPON, proceedings commenced at 10:36 a.m.)

4 MR. MITCHELL: May it please the Court, Your Honor.

5 THE COURT: Yes.

6 MR. MITCHELL: This is 2017-CP-23-0093, Eddie
7 Ballenger vs. The State of South Carolina. Applicant is
8 presently confined in the South Carolina Department of
9 Corrections pursuant to orders of commitment of the
10 Greenville County Clerk of Court. In November 2014, the
11 Greenville County grand jury indicted applicant for four
12 counts of attempted murder and four counts of possession
13 of a weapon during a violent crime. Mr. Scott D. Robinson
14 represented the applicant.

15 On October 3, 2016, applicant pled guilty as indicted
16 to all charges before the Honorable D. Garrison Hill.
17 Judge Hill sentenced applicant to imprisonment for
18 concurrent terms of ten years suspended upon the service
19 of five years for each count of attempted murder, and five
20 years for each count of possession of a weapon during a
21 violent crime. Applicant did not appeal his sentence or
22 conviction.

23 He's present in the courtroom today and represented
24 by Ms. Susannah Ross.

25 THE COURT: Yes, ma'am.

1 MS. ROSS: Thank you, Your Honor. May it please the
2 Court. I'm representing Eddie Ballenger. We did submit
3 an amended application, and it basically alleges
4 ineffective assistance of counsel for failure to
5 effectively advise Mr. Ballenger. His codefendant went to
6 trial and essentially got off on all these charges, and
7 Mr. Ballenger testified in that case.

8 There's also a failure to research mental health
9 history of depression and borderline intellectual
10 functioning and present that in mitigation, failure to
11 adequately prepare for trial and communicate and explain
12 the discovery and plea procedures.

13 So at this point, we'd call Eddie Ballenger to the
14 stand.

15 THE COURT: Sir, if you'll come up here and be sworn,
16 please.

17 THE CLERK: MR. Ballenger, please step around to the
18 witness booth over here, and place your left hand on the
19 Bible and raise your right hand.

20 WHEREUPON,

21 EDDIE BALLENGER

22 After having been duly sworn, testified as follows:

23 THE CLERK: Thank you. You may be seated.

24 Will you please state your full name for the record.

25 THE WITNESS: Eddie Doran Ballenger.

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MS. ROSS:

4 Q Hey, Mr. Ballenger. I guess we'll start by do you
5 understand what relief you can get at a PCR, PCR hearing,
6 the relief to go back into the position you were in before
7 the plea?

8 A Yes, ma'am.

9 Q And you want to go through with that?

10 A Yes, ma'am.

11 Q Okay. Well, let's talk about some history. How far
12 did you go in school?

13 A Ninth grade. I was in the special ed class.

14 Q All right. And that's been -- and you went through
15 ninth grade in all special ed classes?

16 A Yes, ma'am.

17 Q Now, you've been evaluated before or looked at
18 before, and they said you're competent. You understand
19 what I'm saying to you today, don't you?

20 A Yes, ma'am.

21 Q You understand.

22 But as far as they said that you had some borderline
23 intellectual functioning, does it take you a little longer
24 to understand things?

25 A Yes, ma'am.

1 Q Okay. Now, did you feel like Mr. Robinson explained
2 everything to you such that you understood what was going
3 on?

4 A No, ma'am.

5 Q Why not?

6 A Because -- it's just because like he don't come with
7 me, like a plea offer, like trying to help me, you know,
8 the right way, represent me the right way. Yes, ma'am.

9 Q Okay. Well, let's talk about this case. This case
10 they're saying you shot out of a car. Did anyone get
11 shot?

12 A No, ma'am.

13 Q And did you run away from the police or anything?

14 A I got out of the car because my codefendant jumped
15 out of the car first and the car was still going, so I had
16 no choice but to get out of the car. If I didn't get out
17 of the car, I could have got killed.

18 Q Okay. And your codefendant just ran off and didn't
19 cooperate.

20 A Yes, ma'am.

21 Q What did you do?

22 A I cooperated.

23 Q And didn't you give a statement saying, I'm just so
24 sorry, I'm just so sorry?

25 A Yes, ma'am.

1 Q And didn't the codefendant tell you to get in that
2 car and be with you that day?

3 A Yes, ma'am.

4 Q Was he related to you?

5 A No, ma'am.

6 Q Okay. Was he older or smarter?

7 A He's older than me.

8 Q Okay. And did you feel like you could tell him no?

9 A Not really because he just told me come and ride with
10 him, and I ain't know where we were going.

11 Q Now, did the police, when you cooperated with police
12 and everything, did they tell you that they thought you
13 should go to jail or needed prison time?

14 A No, ma'am.

15 Q What did they tell you?

16 A They just told me to cooperate and tell them --
17 explain what happened in the case.

18 Q What did they say would happen if you did cooperate?

19 A They didn't tell me, no.

20 Q Okay. Now, did you testify at the codefendant's
21 trial?

22 A Yes, ma'am. I told them that he had conflicts with
23 the victims. I didn't have no conflicts with them.

24 Q Okay. And were you just doing what he told you to
25 do?

1 A Yes, ma'am.

2 Q Okay. So you testified, and then, at that point, you
3 had already pled guilty; is that right?

4 A Yes, ma'am.

5 Q And did you understand that the gun charge you pled
6 guilty to had a mandatory minimum of five years?

7 A Yes, ma'am.

8 Q You did understand?

9 A I did understand, but after I got sentenced, that's
10 when I had found out that it was a mandatory sentence.

11 Q Well, let's go back to before. You pled before you
12 testified. Did you understand that when you were pleading
13 before you testified that you had to get a mandatory
14 minimum of five years?

15 A No, ma'am.

16 Q So were you told that that was a 85 percent charge,
17 that you had to do that part?

18 A I didn't. No, ma'am. I didn't know.

19 Q What did you think was going to happen?

20 A I thought they was going to look out for me because I
21 told the truth.

22 Q And did your lawyer explain that to you, that you
23 might -- that they were going to look out for you if you
24 testified?

25 A No, ma'am. He didn't.

1 Q Did your lawyer have you evaluated?

2 A No, ma'am.

3 Q Did he present a mental health history or anything to
4 the judge in your case?

5 A No, ma'am.

6 Q And you've been evaluated before, and they think
7 you're competent to stand trial. But you've always had
8 some mental health issues, haven't you?

9 A Yes, ma'am.

10 Q Now, did your lawyer have your mom testify or
11 anything?

12 A No, ma'am.

13 Q Now, did your lawyer have your pastor testify?

14 A No, ma'am.

15 Q Or your brother or anybody on your behalf?

16 A No, ma'am.

17 MS. ROSS: Okay. I believe that's all I have. Thank
18 you, Eddie.

19 THE COURT: Okay. Anything from the State?

20 MR. MITCHELL: Just briefly, Your Honor.

21 CROSS EXAMINATION

22 BY MR. MITCHELL:

23 Q Good morning, Mr. Ballenger. How are you?

24 A Pretty good, sir.

25 Q I just have a few questions for you, okay?

1 Do you recall meeting with your attorney about this
2 at all?

3 A No, sir.

4 Q No? Not at all?

5 Do you remember the guilty plea the day that you pled
6 guilty?

7 A The only thing he told me to do is just plead guilty.
8 That's all he told me to do.

9 Q Do you remember the judge asking you if you fired the
10 gun out of the car that day? Do you remember that?

11 A When he asked me and I told what happened, I
12 explained on the stand what happened. I just told the
13 truth, you know.

14 Q So that did happen. You did fire a gun out of the
15 car?

16 A He told me -- my codefendant told me to.

17 Q Okay.

18 A He said if I didn't, he going to do something to me.

19 MR. MITCHELL: Judge, that's all the questions I
20 have.

21 THE COURT: All right. Any other questions for this
22 witness?

23 MS. ROSS: No, Your Honor.

24 THE COURT: All right. Sir, you can step down, okay?

25 MS. ROSS: We call Travis Ballenger.

1 THE CLERK: Please place your left hand on the Bible
2 and raise your right hand.

3 WHEREUPON,

4 TRAVIS BALLENGER

5 After having been duly sworn, testified as follows:

6 THE CLERK: Thank you. You may be seated.

7 Please state your full name for the record.

8 THE WITNESS: Travis Kenneth Ballenger.

9 DIRECT EXAMINATION

10 BY MS. ROSS:

11 Q Hey, Mr. Ballenger.

12 A How are you doing?

13 Q Were you there for Eddie's plea, his guilty plea?

14 A No, ma'am. I -- actually, I work for like a Nissan
15 dealership and I do a lot of traveling, and at that time,
16 they said that he was -- well, my family -- my family,
17 they the one that told -- called -- that he was on -- that
18 they was going to try him today.

19 Q Okay. So you didn't have enough notice to get in?

20 A No.

21 Q Now, what was your understanding? Do you think Eddie
22 really had a strong grip of what he was doing at the time
23 of this incident?

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

25 Q Now, you weren't there, but let's talk about what you

1 did hear. Did you talk to law enforcement after the
2 incident?

3 A Yes, ma'am. The day they picked Eddie up, they got
4 Eddie from the scene, and they took him to the Greer
5 Police Department. And so me and Ms. Oliver, I call her
6 my Grandma but she's really like my aunt, we -- and my
7 mother, we called over there to the police department, and
8 we talked to one of the personnels that worked there.

9 And so when we talked to the personnel, from my
10 understanding from what they told me and that Mr. -- and
11 they told him what -- that's what he was charged with, and
12 they was just like -- and so after that, so he continued
13 on to tell me -- tell me and my grandma that they had
14 video surveillance of the trigger man and said they --
15 then, from my understanding, that the detective said that
16 Mr. Scott and the detective was in the room talking to my
17 brother. And they told Eddie that they knew who the
18 gunman was, and they told -- they told Eddie if you help
19 us get him ---

20 MR. MITCHELL: Judge, all of this is hearsay.

21 THE WITNESS: No. This is not hearsay. This is what
22 the detective told us out of the mouth over the phone.

23 THE COURT: Sustained.

24 BY MS. ROSS:

25 Q That's hearsay.

1 I want to go back to -- did you get the impression
2 from those police officers that they wanted Eddie to go to
3 prison for this?

4 A Well, it -- this ---

5 Q Just answer the question. Did you get the impression
6 that they were after Eddie?

7 A Yes, yes. They wanted him to go away. Because the
8 reason why I said that, Your Honor, because I'm not -- I'm
9 not defending him because he's my brother. I'm telling
10 you straight the facts. Every -- this boy, he constantly
11 worked and provided for his girlfriend and her child.
12 This wasn't even his biological child, but he provided
13 for. So just it's been days, numerous days he have to
14 like walk to work. They can be riding down the road and
15 they see him walking, they would do a U-turn in the middle
16 of the road and pull up and just get -- pull up behind him
17 and throw the blue lights on and actually get out of the
18 car and harass him.

19 Q Okay. So the police had harassed him before.

20 Now, as far as this case and Eddie's plea, did you
21 feel like the police were after Eddie or the codefendant
22 in this case?

23 A Actually, I -- I -- actually, I think they were more
24 in favor to try to get Eddie off the streets.

25 Q Okay. And you said something about Scott Robinson

1 wanting Eddie to plead guilty versus a trial, that you
2 thought that was a money issue?

3 A Yeah. Actually, I think before -- when they came to
4 -- when they came the exact day, it's just like when you
5 ever know the attorney -- your attorney that you cannot
6 contact him or his secretary. It's been numerous times
7 they had reached out to try to contact him, and no one was
8 able to be contacted. But all of a sudden, now it was
9 when the -- when the trial come, you tell Eddie he better
10 -- he better have you \$500 over here. He comes to court
11 and hand you \$500, that wasn't his money. That was money
12 was taken out of my pocket and his family member's pocket
13 thinking he was going to come in here and represent him.

14 And so he takes the money off of him, and he hands
15 the money to Scott. And Scott, so -- and so when -- when
16 the trial goes on, you lets all these people get up on the
17 stand and testify and sign statements on Eddie, but now
18 out of all the people that sign statements on him was not
19 nowhere at the scene to be found.

20 MS. ROSS: Yeah. And then he didn't go -- it wasn't
21 Eddie who went to trial. He testified.

22 So I've got no further questions at this time.

23 THE COURT: All right. Any questions for this
24 witness?

25 MR. MITCHELL: Just a few, Your Honor.

CROSS EXAMINATION

1
2 BY MR. MITCHELL:

3 Q Mr. Ballenger, is it your contention that the
4 defendant was not involved in the crime at all?

5 A I'm not -- I'm not saying he wasn't involved with the
6 crime. He was -- he was in the car, and I can't deny
7 that. But my -- I'm not saying this because he's my
8 brother. Right is right and wrong is wrong. I don't
9 think -- I don't think he got fairly -- I don't think he
10 got a fair trial. That's my God honest the truth.

11 Q Okay. Do you recall that the defendant gave a
12 confession in this case?

13 A From my understanding, they said he gave a -- he gave
14 a confession, but at the same time, though, if you -- if
15 you're going to try somebody and -- okay. Now, if you --
16 if you going to try somebody just like that boy claimed he
17 had witnesses, how did they figure that he didn't have
18 witnesses? Nobody wasn't subpoenaed to come to court. If
19 they would have subpoenaed me to come to court, I would
20 have come to court and I would testify what I know. And
21 just like ever since he's been incarcerated, I have --
22 I've been -- I've been doing some research and I've been
23 talking to multiple people that know exactly what
24 happened, and why weren't they subpoenaed to come to
25 court?

1 Q But you weren't at the scene of the crime, so you
2 don't know what happened, do you?

3 A Actually, I'm the one that dropped Eddie off at --
4 because he was -- he was at my -- he was at a family
5 member of mine house. He was -- he was not at a family
6 member's house. And the guy that actually affiliate with
7 the guy, the Bruton guy, he -- me and him personally had
8 sat down and had a one-on-one conversation. He told me
9 exactly what -- everything -- everything that happened.

10 So after he got through telling me what happened, and
11 I'm just like, okay, was you subpoenaed to come to court?

12 No.

13 And I was just like, okay, now you're going to try --
14 you're going to try this man, but you don't think he got
15 witnesses, too? I mean, it's -- it's easy for anybody to
16 come up here and sign statements on anybody because of the
17 fact -- but it's all about what you can and you cannot
18 prove.

19 And from my understanding, when I talked to the
20 detective on the phone, he told us flat out of his mouth
21 over the phone that he had video surveillance. So if he
22 can come up here and say that, well, Eddie was the trigger
23 man, where's the video surveillance that they's supposed
24 to have to back up -- back up what he's saying? Because
25 every patrol car have a camera in it. So none of that

1 wasn't presented, so that's why I feel like he didn't get
2 a fair trial.

3 MR. MITCHELL: Thank you, Mr. Ballenger.

4 That's all the questions I have, Judge.

5 THE COURT: Any other questions for this witness?

6 REDIRECT EXAMINATION

7 BY MS. ROSS:

8 Q Do you feel that Mr. Bruton manipulated Eddie or
9 could -- or Eddie would do what he would say?

10 MR. MITCHELL: Objection. Speculation, Your Honor.

11 THE COURT: I'm sorry?

12 MR. MITCHELL: Objection. Speculation.

13 THE COURT: I'll let him answer this question. I
14 will.

15 THE WITNESS: Actually, of my 37 years, I know -- I
16 know Mr. Bruton from -- I don't know him probably about
17 like seven or eight years of my life, and I -- pretty much
18 I know what kind of lifestyle he lives, and I know he
19 always carry firearms on him and intimidate people. So
20 yes, I do. I believe that.

21 MS. ROSS: All right. I've got no further questions.

22 THE COURT: All right. Any other questions for this
23 witness?

24 MR. MITCHELL: No other questions, Your Honor.

25 THE COURT: Sir, you can step down.

1 THE WITNESS: Thank you.

2 THE COURT: Thank you.

3 MS. ROSS: I've got nothing further at this time.

4 THE COURT: All right. Yes, sir.

5 MR. MITCHELL: Your Honor, at this time, the State
6 would call Mr. Scott Robinson.

7 THE CLERK: Mr. Robinson, please place your left hand
8 on the Bible and raise your right hand.

9 WHEREUPON,

10 SCOTT ROBINSON

11 After first having been duly sworn, testified as follows:

12 THE CLERK: Thank you. And please state your full
13 name for the record.

14 THE WITNESS: Scott David Robinson.

15 THE CLERK: Thank you very much. You may be seated.

16 DIRECT EXAMINATION

17 BY MR. MITCHELL:

18 Q Good morning, Mr. Robinson. How are you?

19 A Good morning.

20 Q How long have you practiced law here in South
21 Carolina?

22 A 20 years.

23 Q 20 years.

24 And how much of that time has been dedicated to
25 criminal law?

1 A About 95 percent, 90 percent.

2 Q A good time. Thank you, sir.

3 I think there's been some previous testimony, but you
4 were retained for this case, correct?

5 A I was.

6 Q And can you tell me a little bit about the facts
7 surrounding the charges?

8 A The what?

9 Q The facts surrounding the charges, if you can recall
10 the facts.

11 A Eddie went down the -- Eddie got into a car with his
12 cousin Mr. Bruton, and he gave a -- he shot out the window
13 at several different houses and so forth. No one was
14 injured, but I think in one of the statements from one of
15 the victims, the bullet just missed like a kid or somebody
16 like that. It didn't kill anybody, but it could have
17 killed a little kid or something like that, or a baby,
18 from my recollection. Went down the road.

19 He gave a confession to this, which I have today.
20 And he basically said that -- and he did say that he did
21 shoot the gun and that -- and Mr. Bruton told him that if
22 he didn't do this, that he would hurt him. But he did
23 make a statement to the police that he did have a gun and
24 he did shoot out the window.

25 And then Mr. Bruton, who is -- Mr. Bruton said that

1 he was Eddie's cousin in this, and Mr. Bruton gave a
2 statement as well saying Eddie shot out the window. And
3 he was the main person that put Eddie as the person in the
4 car shooting out the window that night.

5 Q Okay. And my next question will probably delve into
6 issues of competency, but did you talk to your client
7 about the charges that he was facing?

8 A Absolutely. And I really regret that he doesn't
9 remember all the times we met, because he came to my
10 office a good bit, or either the jail, from what I recall.
11 We met -- we went down for the preliminary hearing, met
12 with Officer Bash, who is one of the officers down in --
13 down in Greer, and we were going to cooperate on some
14 matters that would help Eddie out in this case.

15 Q Let me ask you, my next question was going to be did
16 he seem to understand the charges when you discussed them
17 with him, but let me ask you this. Were there ever any
18 issues in regards to competency?

19 A No. He had had an evaluation once before. And,
20 actually, I gave -- Ms. Ross, I believe, when she came to
21 my office on Monday, I gave her the records that I had
22 from the Greenville Mental Health on this that we had
23 gotten.

24 Q So no issues with regards to competency to stand
25 trial ---

1 A No.

2 Q --- or going forward or anything in that regard?

3 A No. Absolutely not.

4 Q Did he understand the conversations that you had with
5 him?

6 A Yes. Here's what I think he -- here's what the most
7 difficult part of this is. There is no question that he
8 had a gun and that he shot out the window. He admitted to
9 that, all right? There's no question that is attempted
10 murder under the law. If he had gone to trial in this
11 case, which he didn't go to trial in this case, but if he
12 had, he could have been convicted on each charge of up to
13 30 years. And if he had been convicted at trial in this
14 case, no matter what I did, no matter anything, he could
15 have gotten on each of those charges -- if those victims
16 had come to court, he could have gotten a combined 100
17 something years in jail for doing that.

18 And the fact that his cousin said I'm going to
19 threaten you or something like that, I don't know how
20 that's going to stand up in this case. I don't know how
21 that would stand up with a jury in this matter.

22 And the advice I gave him was -- because we didn't
23 receive any offers that were -- that Mr. Ballenger would
24 take, because everything was like 15 years, 10 years,
25 20 years and so forth. He wasn't going to take that. He

1 didn't want those.

2 Q Let me ask you, I know you guys were at a plea deal.
3 Did you go to the prosecutor and try to get a good deal
4 for him? Did Mr. Ballenger say that he wanted to go to
5 trial or he wanted to plead guilty? How did this
6 whole ---

7 A He didn't want to go to trial.

8 You know, this is not Eddie's first rodeo with the
9 criminal system. You know, I pulled his rap sheet in this
10 case, and he has a pretty significant record in Greer for
11 a lot of different charges and so forth. It wasn't like
12 this was his first time going to court, all right?

13 And everything was explained to him very carefully
14 and very slowly to make sure he understood what was going
15 on. It's tragic that your own cousin makes a statement
16 against you and so forth. It's tragic that he's stuck
17 with a confession where he's looking at a lot of time in
18 this case. Because I think Eddie's a good person. I
19 think he's a very nice person. But I think he's very
20 impressionable, and I think people take advantage of him.
21 And I think his cousin took advantage of him.

22 I think that the Greer Police Department took
23 advantage of him many times in this matter. I think that
24 throughout his life, they have harassed him, I think, in
25 Greer, and for no reason, really. He's not a bad person.

1 He's got a nice family. They're good people. But they
2 pick on him because he's a little bit slow, and that's
3 just not something that's appropriate.

4 Q Let me ask you this. Do you think that the
5 resolution of this case was fair, was good?

6 A I do. I do. I regret that he had to do time, but
7 the truth is what's important here, and the truth is that
8 he shot a gun. That's the truth, all right? And he got
9 the minimum sentence of five years. If he had gone to
10 trial on these cases, all the cases in this case, all the
11 attempted murder cases, he could have potentially looked
12 at hundreds of -- approximately he would have looked at a
13 lot of time, a lot more than the five years he's doing
14 right now.

15 Q And, in your opinion, how -- I guess how successful
16 -- strike that. In your opinion, how likely would it have
17 been that he would have been convicted at trial had he
18 gone to trial?

19 A That will be speculating. But when you give a
20 confession like that, and it's sad, it's unfortunate, but
21 there's no question he confessed to having a gun. And he
22 shot out the window, and one of those bullets may have
23 killed or hurt a minor child or a baby or someone. And
24 that's something that a jury has to think about.

25 Because I have to look at it in terms of what's best

1 for the client and explain it to him clearly, which is
2 what I did in this case. And I thought that it was -- is
3 it good that a person has to go to jail? No. Of course
4 not. They never want that. But five years and
5 cooperating and getting the five year minimum sentence
6 versus going to trial and facing the potential of a lot of
7 time, maybe 80 years, whatever the amount of time would
8 be, the decision is pretty easy to make, the choice is
9 pretty clear, and he made that decision in this case. I
10 didn't. I recommended that because he did -- he did
11 cooperate against the codefendant in this case,
12 Mr. Bruton, but, you know, that's -- it was his decision.
13 Not mine.

14 Q And I want to wrap up, but let me ask you this.
15 Mr. Ballenger pled guilty before the codefendant went to
16 trial. What was the rationale, the logistics?

17 A The rationale was that if he helped the -- I think
18 from the rationale from the State was that if he helped
19 the State or he cooperated with the State, that they would
20 not ask for the maximum sentence in the case.

21 Q And the sentence was deferred?

22 A It was deferred, correct. And he got the -- and I
23 guess that they liked what cooperation he gave, and that's
24 why he was given the minimum sentence in this case for
25 that charge.

1 MR. MITCHELL: Thank you, Mr. Robinson. Please
2 answer any questions Ms. Ross may have.

3 THE WITNESS: Sure.

4 THE COURT: Ms. Ross?

5 MS. ROSS: Thank you.

6 CROSS EXAMINATION

7 BY MS. ROSS:

8 Q Now, going back, I guess it's in the transcript,
9 but Mr. Ballenger had, it looks like, three priors: a
10 shoplifting, a forgery and a possession of meth. And so
11 that was the extent of his criminal history.

12 A That's not correct. I have the -- I have the -- let
13 me look at this real quick.

14 Q Okay.

15 A He, actually, had a -- actually, another -- in 2003
16 he had a distribution of ice, first offense. He got two
17 years concurrent with his present probation. So that's
18 another charge that he had.

19 It was -- his record started back in 2000. And a lot
20 of this stuff is in Greer where you can see where -- as
21 his uncle said, you can see where the Greer Police
22 Department kind of just -- some of this stuff is just,
23 it's kind of petty, almost. Some of the stuff that they
24 have with him like the trespassing, the entering premises
25 after warning, open container, littering, these are --

1 these are small charges, what they're -- I've always
2 considered that they -- I always thought that they
3 harassed him.

4 Q Okay. And did any of those involve firearms? They
5 didn't, did they?

6 A No. One thing -- there was no firearms. It was just
7 the last -- I wanted to make sure I corrected the fact
8 that he did have one distribution drug charge.

9 Q And as far as telling the judge about his mental
10 health record, you didn't mention that he'd been treated
11 for mental health a number of times to the judge, did you?

12 A I didn't -- I don't have a copy of the transcript so
13 I can't tell you what I said, but if I didn't mention it,
14 I didn't mention it. He had a competency, he had a review
15 before, an evaluation before. He's not -- he's not --
16 he's competent. He's a little bit -- a little bit -- he's
17 just -- he's just Eddie Ballenger. He's just himself the
18 way he is.

19 Q Okay. Now, so looking at the transcript, so you were
20 saying you informed the judge that he was competent and he
21 had been evaluated, but did you inform the judge that he
22 had been going to mental health and had borderline
23 intellectual functioning?

24 A If I didn't say it in the transcript, I didn't say
25 it. I'd have to -- obviously, I don't have a copy of the

1 transcript.

2 Q Did the AG not provide ---

3 A No. I don't have a copy of it.

4 Q Okay. It's page 11 and 12. There you go.

5 A Okay. Sure. (Reviews document).

6 Okay. So what's the question?

7 Q Did you mention that he had gone to Greer Mental
8 Health and gone to get mental health treatment in the past
9 and had been diagnosed with borderline intellectual
10 functioning?

11 A I don't think I -- there's no mention of that in
12 here.

13 Q Okay.

14 A It's just -- it's just what this is talking about is
15 his remorse, his cooperation, all that stuff.

16 Q And was his mother, Elizabeth, present in the court
17 on his behalf that day?

18 A I don't -- I don't know that. I don't remember that.
19 She's usually always been around. She's always around.
20 She's very nice.

21 Q And they didn't present any testimony as to
22 Mr. Ballenger's intellectual functioning or history of
23 mental health or anything that major?

24 A No.

25 Q Now, when Mr. Ballenger pled prior to his -- the

1 trial where he testified against his codefendant, what --
2 did you have any sway on what he pled actually guilty to?
3 In other words, he pled guilty to attempted murder,
4 correct?

5 A Uh-huh.

6 Q And possession of a weapon during the commission of a
7 violent crime.

8 A Did I have any sway as far as ---

9 Q Did you attempt to negotiate away or negotiate about
10 that possession of a weapon charge given that it carried a
11 mandatory sentence?

12 A They weren't willing to -- they weren't willing to
13 drop that charge. They weren't willing to do anything
14 with that charge. Because he -- they had him kind of over
15 a barrel with that charge because he confessed to having
16 the gun, shooting the gun. There's no question. They had
17 him on those two charges.

18 Q And in exchange for his testimony, did you get any
19 understanding of what he would receive in exchange for
20 testifying?

21 A They're not going to tell me that they're going --
22 they don't give a sentence, because what happens is if
23 they go to trial with him as a witness, they can put him
24 on the stand and say, Well, you're getting -- you've been
25 promised XYZ sentence in return for your testimony, and

1 they can impeach him on that. So that's why they don't
2 normally do that.

3 Q Okay. And did you just ever go to Mr. Watson or
4 anything and say, Hey, is there anything we can do with
5 this possession of a weapon charge since it carries ---

6 A I think we would have always talked about things. We
7 just talked conversationally and so forth.

8 Q But you don't have any independent recollection of
9 that?

10 A I have no independent recollection. No, I don't.

11 Q All right.

12 A But it shows me, though, that what -- the sentence
13 that he got, which is the minimum sentence, because if you
14 notice on page 11 of the transcript, I was actually -- I
15 was actually telling the judge about his cooperation, what
16 he's done and so forth and that I wanted a split sentence
17 that would allow him to just do the minimum five years in
18 this case.

19 Q Now, when you asked for that, you didn't mention the
20 minimum five years on the possession of a firearm in the
21 transcript.

22 A I did. I think I would just ask for the minimum
23 sentence he could get, if I did.

24 Q Okay. And did you ever ask for home incarceration or
25 him to consider any alternative to the five years?

1 A I didn't. I didn't because I -- I didn't ask for
2 that, no.

3 MS. ROSS: All right. No further questions at this
4 time.

5 THE COURT: Any follow-up?

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

7 THE COURT: Sir, you can step down.

8 THE WITNESS: Thank you.

9 THE COURT: Thank you.

10 Anything else from the State?

11 MR. MITCHELL: The State has no additional witnesses,
12 Your Honor.

13 THE COURT: All right. Well, I've got a number of
14 things here that I need to look at. I'm going to want to
15 take some time to look at these things. I would
16 anticipate I'd be issuing a decision between two and three
17 weeks from now, but I want to be very careful in what I
18 look at, and I've got some mental health records and
19 things. I'm going to have to look at everything.

20 I wish you the best of luck, sir.

21 MS. ROSS: Thank you, Judge.

22 (WHEREUPON, proceedings concluded at 11:12 a.m.)

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, CHERYL A. SMITH, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 27th day of October, 2017.

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

January 26, 2018

Cheryl A. Smith
Cheryl A. Smith, CVR-M
Court Reporter

STATE OF SOUTH CAROLINA)
 COUNTY OF GREENVILLE)
)
 Eddie Ballenger, 283547)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 THIRTEENTH JUDICIAL CIRCUIT

2017-CP-23-0093

ORDER OF DISMISSAL

ENTERED COMPUTER

18 NOV 17 PM 3:04
 Paul Wickensmeier - COC 611L 9C

This matter comes before the Court by way of an application for post-conviction relief filed on January 9, 2017 by Eddie Ballenger (Applicant). Respondent made its Return on or about June 23, 2017. An evidentiary hearing into the matter was convened on October 27, 2017, at the Greenville County Courthouse in Greenville, South Carolina. Applicant was present and represented by Susannah C. Ross, Esquire. Respondent was represented by DeShawn H. Mitchell, Esquire of the South Carolina Attorney General's Office.

At the hearing, Applicant testified on his own behalf. Applicant's Plea Counsel Scott D. Robinson, Esquire also testified as did Travis Ballenger, Applicant's brother. This Court had before it a copy of the records of the Greenville County Clerk of Court regarding the Applicant's convictions, the transcript from Applicant's guilty plea, the PCR application, Respondent's Return and Applicant's records from the Department of Corrections. After reviewing the record and everything presented, this Court finds Applicant has failed to establish any constitutional deprivations entitling him to post-conviction relief and denies this application.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In November 2014, the Greenville County Grand Jury indicted Applicant for four counts of attempted murder and four

counts of possession of a weapon during a violent crime (2014-GS-23-9952, -9953, -9954, -9958). Scott D. Robinson, Esquire represented Applicant. Assistant Solicitor R. Asher Watson, Esquire prosecuted the case. On October 3, 2016, Applicant pleaded guilty as indicted to all charges before the Honorable D. Garrison Hill. Judge Hill sentenced Applicant to imprisonment for concurrent terms of ten years suspended provided upon the service of five years for each count of attempted murder and five years for each count of possession of a weapon during a violent crime. Applicant did not appeal his conviction or sentence.

FACTUAL HISTORY

On August 16, 2014, within the Greer city limits in the county of Greenville, Applicant was the front seat passenger in a vehicle driven by Tony Bruton. Applicant shot from inside the vehicle several times at a number of victims. This was witnessed by a Greer Police Department officer who saw the muzzle flash at nighttime of this occurring. A vehicle chase ensued where this officer chased the vehicle and the driver. Mr. Bruton stopped the car in the middle of the road and fled the scene but was apprehended. He told the police Applicant fired shots for unknown reasons. Applicant was also detained and informed the police that the driver, Mr. Bruton, who is his cousin, had been engaged in an earlier altercation and that Mr. Bruton told him to shoot the victims. The gun was recovered and Applicant admitted to shooting at the victims. Applicant also claimed that Mr. Bruton provided the gun to him to shoot at the victims. The first set of victims were walking their two kids, one of which was in a stroller. They informed law enforcement that the driver was driving erratically by himself during the first encounter. There was some words exchanged at that point and later on the driver picked up Applicant and circled back around to where the victims were walking down another and fired several shots at the victims. The victims were on the sidewalk in front of another set of victims

who were on their porch when the shots were fired. At least one shot came between two of the victims that were sitting on the porch. They had nothing to do with this incident and were just on the porch when this occurred. (GP. Tr. p.7-8).

ALLEGATIONS

In his application, Applicant alleges he is being held in custody unlawfully for the following reasons (quoted verbatim):

1. Ineffective Assistance of Counsel
 - a. "Misrepresentation by attorney"
 - b. "Not counseling"

In his amendment to his application, Applicant alleges he is being held in custody unlawfully for the following reasons (quoted verbatim):

1. Ineffective Assistance of Counsel
 - a. Failure to advise effectively by pushing a guilty plea when co-defendant was not convicted at trial
 - b. Failure to research mental health history of depression and borderline of intellectual function for mitigation
 - c. Failure to investigate facts and adequately prepare for trial
 - d. Failure to communicate and explain discovery and plea offers

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTARY HEARING

Applicant's Testimony

Applicant testified he was in special education classes in school and only made it to the ninth grade. He testified he had been evaluated before and was found to be competent. Applicant testified he was found to have some borderline intellectual functioning and it takes him a little longer to understand things. He testified he did not feel like Plea Counsel explained everything to him so they he could understand it. Applicant testified Plea Counsel did not try to help him or represent him the right way. He testified regarding his charges the allegations where he shot out

of a car but no one got shot. Applicant testified he got out of the car and ran after the shooting because his co-defendant got out. He testified he cooperated with police and gave a statement. Applicant testified his co-defendant told him to get in the car with him that day and he did not feel like he could tell his co-defendant no. He testified when he cooperated with the police they told him they thought he did not need to go to jail. Applicant testified he testified at his co-defendant's trial and that his co-defendant had conflicts with the victims but he did not have any conflicts with them. He testified he had pled guilty prior to testifying at his co-defendant's trial. Applicant then testified he did not understand the gun charge he pled guilty to had a mandatory minimum of five years. He testified his lawyer did not have him evaluated or present a mental health history to the plea judge. Applicant testified he has always had some mental health issues. He testified his lawyer did not have his mom, pastor or brother testify at his sentencing hearing.

Travis Ballenger's Testimony

Mr. Ballenger testified he did not believe Applicant, his brother, had a strong grip of what he was doing at the time of the incident he was charged with. He testified some family members and himself called the Greer Police Department where Applicant was and talked to police. Mr. Ballenger testified the police told them they wanted Applicant to assist them on the case. He testified he got the impression the police were after Applicant and wanted him to go to jail. Mr. Ballenger testified the police would continuously harass Applicant. He testified that he thought Plea Counsel wanted Applicant to plead guilty instead of going to trial because of a money issue. He testified they had trouble contacting Plea Counsel but when it was time for a potential trial Plea Counsel would reach out looking for money.

On cross-examination, Mr. Ballenger testified he was not saying Applicant was not involved in the crime and in fact Applicant was in the car but he did not think Applicant got a

fair deal. He testified Applicant gave a confession.

Plea Counsel's Testimony

Plea Counsel testified he had practiced law for twenty years and was retained to represent Applicant on his charges. He testified the facts surrounding this case were Applicant got into a car with his cousin, Mr. Bruton, and Applicant shot out of the window of the car at several different houses and so forth. Plea Counsel testified no one was injured, but one of the statements from one of the victims was that a bullet just missed a kid. He testified Applicant gave a confession in which he basically said he shot the gun and Mr. Bruton told him that if he did not do this, that he would hurt him. Plea Counsel testified Mr. Bruton gave a statement as well saying Applicant shot out of the window. He testified Applicant came to his office a good bit to discuss his charges. He testified Applicant along with himself met with Officer Bash from the police department in Greer to cooperate on other criminal matters that would help Applicant out on his charges. Plea Counsel testified Applicant had been evaluated before and he got records from Greenville Mental Health and that Applicant did not have any issues with competency to stand trial. He testified Applicant understood the conversations they had regarding his charges. Plea Counsel testified there is was no question that Applicant had a gun and that he shot out the window because he admitted it and it constituted attempted murder. He testified if Applicant had gone to trial in this case he could have been convicted on each charge of attempted murder and each carried up to thirty years each. Plea Counsel testified Applicant's potential exposure was over a combined one hundred years and the fact that his cousin told him he was going to threaten him if he did not shot out of the car was not a credible defense strategy to present to a jury. He testified that Applicant did not want to go to trial and turned down plea deals he had for ten, fifteen and twenty years. Plea Counsel further testified this was not Applicant's first interaction

with the criminal justice system and that he had a pretty significant record. He testified that he explained everything to Applicant very carefully and slowly to make sure he understood what was going on. Plea Counsel testified it was tragic that Applicant's own cousin made a statement against him and took advantage of him. He testified Applicant was a nice person who was very impressionable and was taken advantage of by his cousin and by the Greer Police Department many times in the past. Plea Counsel testified he regretted Applicant had to do time in prison but he thought Applicant's sentence was a good resolution to his case because at the end of the day Applicant shot the gun and only received five years. He testified Applicant pled guilty and his sentencing was deferred so he could testify against his co-defendant. Plea Counsel testified Applicant cooperated and received a much lighter sentence because of that.

On cross-examination, Plea Counsel testified he did not mention to the plea judge about Applicant's mental health records. He testified he informed the plea judge that Applicant was competent but not specifically about his mental health history or that he had been diagnosed with borderline intellectual functioning. Plea Counsel testified he did not have Applicant's mother speak during Applicant's guilty plea. He testified the state was not willing to drop the possession of a weapon charge because Applicant had confessed to shooting the gun. Plea Counsel testified Applicant testified for the state in hopes of getting a reduced sentence or recommendation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has had the opportunity to observe the witnesses presented at the hearing, and can weigh their testimony and credibility accordingly. These credibility findings have been applied to the Court's findings and conclusions set forth

below. Below are the findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017).

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 443, 334 S.E.2d at 814. 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. at 689. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove that counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Id. (quoting Strickland v. Washington, 466 at 688). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

Failure to Advise

Applicant alleges Plea Counsel was ineffective in failing to advise effectively by pushing a guilty plea when co-defendant was not convicted at trial. Plea Counsel testified Applicant pled guilty and his sentencing was deferred so he could testify against his co-defendant. He testified Applicant gave a confession in which he basically confessed he shot the gun out of the window. He testified if Applicant had gone to trial in this case he could have been convicted on each charge of attempted murder and each carried up to thirty years each. Plea Counsel testified Applicant's potential exposure was over a combined one hundred years and the fact that his cousin told him he was going to threaten him if he did not shot out of the car was not a credible defense strategy to present to a jury. Plea Counsel testified Applicant cooperated by testifying against his cousin and received a much lighter sentence because of it. This Court finds Plea Counsel was not deficient. This Court finds Plea Counsel worked out a good plea deal for Applicant significantly lowering his exposure notwithstanding the fact Applicant confessed to the crime. Furthermore, this Court finds Applicant has failed to show prejudice as Plea Counsel testified Applicant did not want to go the trial. Therefore, Applicant has failed to meet his burden to prove Plea Counsel was ineffective. This allegation is denied and dismissed with prejudice.

Failure to research mental health history

Applicant alleges Plea Counsel was ineffective in failing to research mental health history of depression and borderline of intellectual function for mitigation. Plea Counsel testified Applicant had been evaluated before and he got records from Greenville Mental Health and that Applicant did not have any issues with competency to stand trial. He testified Applicant understood the conversations they had regarding his charges. Plea Counsel also testified the state was not willing to drop the possession of a weapon charge because Applicant had confessed to

shooting the gun. Upon a review of the record, this Court finds Applicant received the lowest sentence possible considering the weapons charge that Plea Counsel testified the state was unwilling to drop. Plea Counsel testified he regretted Applicant had to do time in prison but he thought Applicant's sentence was a good resolution to his case because at the end of the day Applicant shot the gun and only received five years. This Court concurs with that assessment. This Court further finds that no additional mitigation presented would have changed Applicant's sentence considering the weapons charge. Additionally, this Court find Applicant presented no information to show he was incompetent at the time of the plea. Therefore, Applicant has failed to meet his burden to prove Plea Counsel was ineffective. This allegation is denied and dismissed with prejudice.

Failure to investigate facts and prepare for trial

Applicant alleges Plea Counsel was ineffective in failing to investigate facts and adequately prepare for trial. Applicant failed to present any evidence in support of this allegation other than the testimony of a witness who was not present during the incident. To show ineffective assistance in this regard, Applicant must present evidence to show what counsel could have discovered had he more fully investigated. Jackson v. State, 329 S.C. 345, 354, 495 S.E.2d 768, 772 (1998) ("Respondent failed to present any evidence of what counsel could have discovered or what other defenses respondent would have requested counsel pursue had counsel more fully prepared for the trial."). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). Applicant has failed to show what beneficial information could have been discovered had Counsel done more

investigation. Even so, Counsel testified credibly that he reviewed all of the discovery with Applicant. Plea Counsel testified Applicant's potential exposure was over a combined one hundred years and the fact that his cousin told him he was going to threaten him if he did not shot out of the car was not a credible defense strategy to present to a jury. He testified that Applicant did not want to go to trial. This Court finds Counsel's investigation was reasonable as was his preparation. Therefore, Applicant has failed to meet his burden to prove Plea Counsel was ineffective. This allegation is denied and dismissed with prejudice.

Failure to communicate and explain discovery and plea offers

Applicant alleges Plea Counsel was ineffective in failing to communicate and explain discovery and plea offers. Plea Counsel testified Applicant came to his office a good bit to discuss his charges and evidence. He testified Applicant along with himself met with Officer Bash from the police department in Greer to cooperate on other criminal matters that would help Applicant out on his charges. Plea Counsel also testified Applicant turned down several plea offers and that Applicant understood their conversations. This Court finds Plea Counsel's communication with Applicant was reasonable. Therefore, Applicant has failed to meet his burden to prove Plea Counsel was ineffective. This allegation is denied and dismissed with prejudice.

CONCLUSION

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

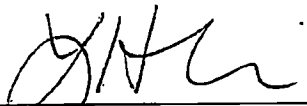
This Court notifies Applicant that he must file and serve a notice of appeal within thirty (30) days from receipt by counsel of written notice of entry of judgment to secure the appropriate

appellate review. *See* Rule 203, SCACR. An applicant has a right to an appellate counsel's assistance when they are seeking review of the denial of PCR. Austin v. State, 305 S.C. 453 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. See Rule 71.1 (g), SCRCP. Reffer to Rule 243 of the South Carolina Appellate Court Rules for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

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

AND IT IS SO ORDERED this 15 day of May, 2018.


 LETITIA H. VERDIN
 Presiding Judge
 Thirteenth Judicial Circuit

Greenville South Carolina

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MAY 31 2018

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge

2017-CP-23-0093

Eddie Ballanger, Appellant,
v.
The State, Respondent.

NOTICE OF APPEAL

Eddie Ballanger appeals the Honorable Letitia H. Verdin's Order of Dismissal filed May 17, 2018.

This 29 day of May, 2018.


Susannah Ross, Attorney at Law
330 E. Coffee St.
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Attorney for Appellant

Other Counsel of Record:
DeShawn Mitchell, Assistant Attorney General
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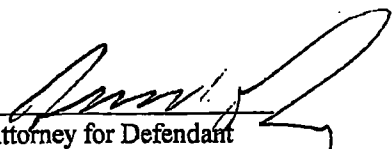
STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 EDDIE BALLANGER ,)
 APPELLANT,)
)
 VS.)
)
)
)
 THE STATE OF SOUTH CAROLINA,)
 RESPONDANT.)

IN THE SUPREME COURT

CERTIFICATE OF SERVICE
BY MAIL

1. I am the attorney for the Applicant in the above-captioned matter.
2. Regular communication by mail exists throughout the state of South Carolina and this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Notice of Appeal** on the above-captioned matter on the following person by depositing the same in the United States mail with proper postage affixed thereto:

Mr. DeShawn Mitchell
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211


 Attorney for Defendant

This 29 day of May, 2018.

RECEIVED
 MAY 31 2018
 S.C. SUPREME COURT