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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Greenville County

Honorable Robin B. Stilwell, Circuit Court Judge

ALEXANDER MALDONADO COREANO,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-000609

APPENDIX

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STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS

2011-GS-23-2474

2011-GS-23-5010

THE STATE OF SOUTH CAROLINA,)
PLAINTIFF,)

vs.)

ALEXANDER MALDONADO COREANO,)
DEFENDANT.)

 ORIGINAL

TRANSCRIPT OF RECORD

August 14, 2013
Greenville, South Carolina

B E F O R E:

THE HONORABLE J. MARK HAYES, II, JUDGE.

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

JOYCE MONTS, ESQ.
Attorney for the Plaintiff

MICHAEL PINCKNEY, ESQ.
Attorney for the Defendant

PENNY M. JOHNSON
Official 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.)

P R O C E E D I N G S

THE COURT: Madam Clerk, would you please swear the interpreter.

THE CLERK: I will do that.

(WHEREUPON, the Interpreter was sworn.)

THE CLERK: Please state your name for the record.

THE INTERPRETER: Teresa Sampson.

THE CLERK: Your Honor, in the case of 2011-GS-23-2474, the State vs. Alexander Maldonado Coreano, he is indicted for possession of cocaine, he's pleading to the same, and this is a true bill. In the case of 2011-GS-23-5010, also, the State vs. Alexander Maldonado Coreano, he's indicted for two things, trafficking cocaine and he's pleading to trafficking 28-grams or more, but less than 100-grams. And he's, also, indicted for possession of a weapon during the commission of a violent crime and he pleading to the same on both of those. That is a true bill as well.

Please raise your right hand.

Alexander Maldonado Coreano, after being duly sworn, testified as follows:

EXAMINATION

BY THE COURT:

Q All right. Thank you, sir. You are Mr. Coreano?

A Yes.

1 Q And you're, also, known as Jose Sanchez Coreano?

2 A Yes.

3 MS. MONTES: And, Your Honor, we would ask to amend
4 both indictments to include that AKA.

5 MR. PINCKNEY: No objection, Your Honor.

6 THE COURT: Without objection. All right.

7 BY THE COURT:

8 Q And, sir, it is your intent to enter a plea to the
9 two charges that were announced by the clerk of the court?

10 A Yes.

11 Q All right, sir. If ever during this process, if you
12 feel the need to wish to speak to your lawyer, just let me
13 know and I'll allow you to talk to your lawyer in private.
14 How old are you, sir?

15 A Twenty-five years old.

16 Q How far did you go in school?

17 A I didn't have enough resources, so I only finished a
18 secondary school.

19 Q Are you married, single, divorced?

20 A I have a wife and I have three children.

21 Q How old are your children?

22 A Eight, four and two.

23 Q Prior to your arrest on these charges, did you have a
24 job outside of the home?

25 A Yes, I'm a painter.

1 Q Ever serve in the military?

2 A No.

3 Q How long have you been in jail on these charges?

4 A Twenty-eight months.

5 MS. MONTS: Your Honor, we have 838 days.

6 THE COURT: Thank you, ma'am. 838?

7 MS. MONTS: Yes, Your Honor.

8 BY THE COURT:

9 Q Sir, within the last 24 hours, have you consumed any
10 type of substance that is adversely affecting your ability
11 to understand what we're doing today?

12 A No.

13 Q Are you satisfied with the work that your lawyer has
14 done?

15 A Yes.

16 Q Has anybody come to you and threatened you in any way
17 or have they made you any promises in order to get you to
18 make the decision to enter these pleas?

19 A No.

20 Q Am I correct to conclude that your decision to enter
21 these pleas is a free and voluntary decision on your part?

22 A Yes.

23 Q Sir, I need for you to understand that under the law,
24 you are presumed innocent of both these charges. You do
25 have a right to have a jury trial on both of these

1 charges. At any jury trial that would take place, it
2 would be the State that has the burden of proof and the
3 State would have to convince all 12 members of a jury that
4 you are, in fact, guilty beyond a reasonable doubt. Do
5 you wish to have a jury trial on either of these charges?

6 A No.

7 Q Sir, I need for you to understand that there are
8 other very important constitutional rights that you are
9 entitled to, but that you have to give up in order to
10 enter a plea. You have to give up your right to
11 cross-examine the State's witnesses. You, also, have to
12 give up your right to present evidence that you or your
13 lawyer may feel would establish a defense. You, also,
14 have to give up your right of subpoena, and, also, your
15 right to remain silent. Do you understand all those
16 rights?

17 A Yes.

18 Q And you wish to give up those rights and go forward
19 with entering the plea?

20 A Yes.

21 Q And sir, you've been able to talk to your lawyer as
22 to any potential consequences entering this plea might
23 have on your immigration status?

24 A Pardon me?

25 Q You've been able to talk to your lawyer as to any

1 consequences your decision to enter the plea might have on
2 your immigration status?

3 A I really haven't talked to him about it, no. All I
4 know is I have immigration on hold.

5 Q All right. So you do understand that by entering the
6 plea, it might have some type of consequences on your
7 immigration status?

8 A Yes.

9 Q All right. Sir, if you would, please, listen to the
10 solicitor. She is going to provide us with the facts and
11 then I will have some more questions for you.

12 MS. MONTS: May it please the Court, Your Honor.

13 Regarding the possession of cocaine charge, on
14 August 31, 2010, this Defendant was pulled over on White
15 Horse Road in Greenville County for a traffic violation.
16 He did tell the officer that he did not have a valid
17 driver's license and he was asked to exit the vehicle. He
18 consented to a search and in his left pocket was 6.18
19 grams of marijuana. He was arrested and searched incident
20 to arrest of the vehicle revealed three baggies of
21 cocaine, analyzed as 0.25, 0.53 and 0.09 grams, a total of
22 0.87 grams of cocaine. This was in the center console and
23 the Defendant did claim ownership of the cocaine. He did
24 give a false name. When he was fingerprinted at the law
25 enforcement center, they decided his real name was the

1 Alexander Maldonado Coreano. Your Honor, he was charged
2 and convicted subsequently of the false name to police and
3 the possession of marijuana and the no driver's license.

4 Your Honor, regarding the trafficking cocaine and
5 possession of firearm, these occurred when officers with
6 the Greenville County Sheriff's Office and SLED executed a
7 search warrant on April 29th of 2011 at 8:30 a.m. at the
8 Defendant's residence at [REDACTED] Dixie Circle, trailer number
9 [REDACTED], in Greenville County. The Defendant was the only
10 person home. He was asleep on a bed in the master
11 bedroom. Officers asked him to show both hands, but he
12 kept one hand under a blanket. The officer tased him,
13 then he did show both hands. Officers did execute the
14 search warrant and in the room the Defendant was in was a
15 25-caliber handgun on the counter of the bedroom. Also,
16 in the master bedroom, 20 plastic baggies with residue,
17 which field tested positive as cocaine. There were three
18 plastic baggies, which did contain analyzed cocaine of
19 1.29 grams. Beneath the bed that the Defendant was asleep
20 in was a red cooler. This did contain what analyzed as
21 228.06 grams of cocaine. There were latents lifted from
22 these packages of cocaine, which did come back to the
23 Defendant. Further search of the house was another
24 pistol, a model 25-caliber, which was on the refrigerator
25 in the kitchen.

1 Your Honor, that would be the State's case.

2 FURTHER EXAMINATION

3 BY THE COURT:

4 Q Do you believe that as she stated the facts to me
5 that the solicitor is substantially correct?

6 A Not all of it.

7 Q All right. Do you disagree that you had, at least,
8 28 grams or more of cocaine back on April the 29th of 2011
9 in the house that you were in?

10 A Sincerely, I don't know how much it weighed. I was
11 sleeping.

12 Q All right. So it could have been that amount of
13 cocaine?

14 A I don't know.

15 MR. PINCKNEY: Your Honor, if you'd give me just a
16 moment with my client?

17 BY THE COURT:

18 Q On the possession of cocaine charge on August 31st,
19 2010, do you dispute those facts?

20 A I was driving a truck for my work, but there were a
21 lot of people that were using the same truck and I didn't
22 know. I don't know exactly where they found it, if they
23 found it in truck or where.

24 Q Would you like an opportunity to speak with your
25 lawyer for a moment?

1 A No, that's everything. It's okay. It's fine.

2 Q Well, sir, I need for you to understand that by
3 entering the plea, you're giving up any possible defenses
4 you may have. Do you understand that?

5 A Yes.

6 Q And you still wish to enter the plea?

7 A Yes.

8 THE COURT: All right. And I understand from looking
9 at the sentencing sheet that these are negotiated pleas?

10 MS. MONTS: Yes, Your Honor.

11 THE COURT: What would be the negotiations?

12 MR. RICHARDSON: Your Honor, this is for a 12-year
13 active sentence.

14 BY THE COURT:

15 Q And, sir, you do understand this is being presented
16 to me as a negotiated plea?

17 A Yes.

18 Q And you wish for me to accept the negotiations?

19 A Yes, if that's what you wish.

20 Q Well, sir, I just need for you to understand that if
21 I accept your plea that I will be bound by the
22 negotiations. Do you understand that?

23 A Yes.

24 Q All right. Sir, are you, in fact, guilty of the
25 possession of cocaine charge?

1 A Yes.

2 Q And are you, also, guilty of trafficking in cocaine
3 28 grams or more, but less than 100 grams charged?

4 A Yes.

5 Q And, sir, do you understand that the trafficking
6 charge is classified as both a violent and, also, as a
7 serious offense under the law?

8 A I didn't know that until now.

9 Q You've been able to talk to your lawyer as to the
10 consequences of that offense being classified as both a
11 violent and serious offense?

12 A Yes.

13 Q And you still wish to enter this plea?

14 A Yes.

15 Q All right. Have all of your answers to my questions
16 been truthful?

17 A Yes.

18 THE COURT: Discovery been shared with the defense?

19 MS. MONTS: Yes, Your Honor. May we approach,
20 please?

21 (WHEREUPON, a bench conference was held.)

22 FURTHER EXAMINATION

23 BY THE COURT:

24 Q All right. Sir, I'm going to ask you again about
25 your level of responsibility. I'm going to ask it in a

1 way. Since you would not completely acknowledge the facts
2 earlier, I'm going to ask you another question concerning
3 these charges. If you would, please, listen to my
4 questions. I know that you had an opportunity to talk to
5 your lawyer prior to my asking these questions, so if you
6 feel that you need the opportunity to speak to your lawyer
7 again, please, feel free to let me know and I'll allow you
8 to do so in private.

9 Sir, in regards to the charges of possession of
10 cocaine and, also, in regards to the charge of trafficking
11 cocaine 28-grams or more, but less than 100-grams, do you
12 believe that the State could produce sufficient evidence
13 to prove your guilt of these charges beyond a reasonable
14 doubt and that if you went to trial a jury would most
15 probably find you guilty of these charges?

16 A Yes.

17 Q All right.

18 THE COURT: And discovery has been shared with the
19 Defense?

20 MS. MONTS: Yes, sir Your Honor.

21 THE COURT: Prior record?

22 MS. MONTS: Your Honor, 2006, driving with no
23 driver's license; 2010, possession of marijuana, again, no
24 driver's license; 2013, false information to police, no
25 driver's license; and possession of marijuana from the

1 possession of cocaine incident, Your Honor.

2 THE COURT: Anything else from the State?

3 MS. MONTS: Your Honor, just that as an Alford
4 charge, that this would be an exchange -- what the State
5 is giving is the reduction off of the mandatory 25 years.

6 THE COURT: Okay. Thank you very much.

7 Yes, sir.

8 MR. PINCKNEY: Judge, not a whole lot to say other
9 than I have discussed this thoroughly with my client.
10 It's been a little bit difficult because there's a lot
11 that he's had to understand and to learn in a very short
12 period of time. Been working on this case with him for
13 over two years now. There were other attorneys involved
14 before my involvement. Part of that time, I was in
15 Afghanistan and had other people from my office assisting
16 with this case. However, this case has been really an up
17 and down experience and a very difficult experience for
18 all of us involved. So a lot of the details concerning
19 the plea itself had to be explained here, relatively, at
20 the last minute. So I've explained to my client that I do
21 believe -- it's my opinion that the evidence against him
22 is more than sufficient, that he has a very slim chance,
23 in my opinion, of winning a trial. Legal arguments,
24 factual arguments, everything that we could have gone
25 through. We've let no stone unturned, Your Honor. He

1 understands that. I believe that he understands exactly
2 what's going on and what his options are and he's making
3 this decision voluntarily and knowingly, Your Honor.

4 THE COURT: Do you agree with what your lawyer just
5 stated?

6 THE DEFENDANT: Yes.

7 THE COURT: Sir, is there anything else that you
8 would like for me to know or wish for me to consider?

9 THE DEFENDANT: Only I have three small children.

10 THE COURT: All right. And sir, I need to -- in
11 regards to the charge of possession of a weapon during a
12 violent crime, do you believe that the State could produce
13 sufficient evidence to prove you guilty of that charge
14 beyond a reasonable doubt and that if you went to trial, a
15 jury would probably find you guilty of that charge as
16 well?

17 THE DEFENDANT: Yes.

18 THE COURT: Sir, thank you very much.

19 Possession of a weapon during the commission of a
20 violent crime carries?

21 MS. MONTS: Mandatory five, Your Honor.

22 THE COURT: I find that there is a substantial
23 factual basis for the plea, and that the Defendant's
24 decision to enter the plea has been made freely,
25 voluntarily, knowingly and intellectually by him.

1 Therefore, I will accept the plea.

2 I've indicated on the sentencing sheet that for the
3 trafficking charge, it is a 12-year sentence at the
4 Department of Corrections to run concurrent with the other
5 charges. You'll receive credit for 838 days. Five-year
6 sentence on the gun charge that will run concurrent with
7 the other charges, which you will receive credit for 838
8 days. That is a three-year sentence on the possession of
9 cocaine charge to run concurrent with the other charges,
10 which you'll receive credit for 838 days. I've also
11 indicated on the sentencing sheet this is an Alford plea
12 as well.

13 MR. PINCKNEY: Thank you, Your Honor.

14 MS. MONTS: Thank you, Your Honor.

15 THE COURT: Good luck to you, sir.

16 *****END OF PROCEEDINGS*****
17
18
19
20
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25

CERTIFICATE OF REPORTER

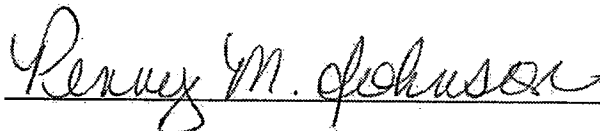
STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

I, PENNY M. JOHNSON, Official Court Reporter for the Second 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 trial of the captioned case, relative to appeal, in Court of General Sessions for Greenville County, South Carolina, on the 14th day of August, 2013.

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

January 6, 2015



Penny M. Johnson Court Reporter

My Commission Expires: 06/16/2018

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of GREENVILLE)ALEXANDER M. COLEMAN #356641)
Full name and prison number (if any) of Applicant)

2014-CP-23-

APPLICATION FOR

POST-CONVICTION RELIEF

v.)

State of South Carolina)

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
JUL 22 2014
B. WICKERHUISMERINSTRUCTIONS - 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 RIDGELAND CORRECTIONAL INST. / 6A-57, PO Box 2039
RIDGELAND, SC 29936
2. Name and location of Court which imposed sentence GREENVILLE COUNTY,
COURT OF GENERAL SESSIONS, GREENVILLE, SC
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2011GS2302474, SC CODE § 44-53-370 (d)(3)
 - (b) 2011GS2305010, SC CODE § 16-23-490

(c) 2011GS05010 - SC CODE § 44-53-370 (E)(2)

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

(a) 8/14/13 - 3 yrs TERM OF IMPRISONMENT

(b) 8/14/13 - 5 yrs " "

(c) 8/14/13 - 12 yrs " "

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

No

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

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

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) SEE ATTACHED APPENDAGE

(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) SEE ATTACHED APPENDAGE
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE ATTACHED APPENDAGE
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

No

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

(a) which grounds have been presented:

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

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

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

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) SEE ATTACHED APPENDAGE
 (b) _____
 (c) _____

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

(a) your arraignment and plea? ✓
 (b) your trial, if any? —
 (c) your sentencing? ✓
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? —
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

N/A

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

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

i. ALAN MATTHEW P. PINCKNEY
414 B MONUMENT STREET
PO Box 185
GREENWOOD, SC 29648
 ii. _____
 iii. _____

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

i. ARRAIGNMENT AND PLEA / SENTENCING
 ii. _____
 iii. _____

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

SEE ATTACHED APPENDAGE

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

No

STATE OF SOUTH CAROLINA)

County of Jasper)

VERIFICATION

I, Alexander Matdonado-Corcano, #356641, 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.

Alexander Corcano

SWORN to and subscribed before me this 5
day of August, 2019.

Virginia Robinson (L.S.)
Notary Public

My Commission Expires: May 20, 2021

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

I, ALEXANDER MAIDONADO-CORRADO, #356641, 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.

Alexander CORRADO
Applicant

SWORN or affirmed to and subscribed before me this

5 day of August, 2014.

Virginia Robinson
Notary Public

My Commission Expires: May 20, 2021

State of South Carolina	)	In the Court of Common Pleas
County of Greenville	)	Thirteenth Judicial Circuit
Alexander M. Coreano, # 356641	)	
Applicant,	)	C/A No. ~~2014-CP-23-04668~~
Vs.	)	
State of South Carolina	)	Appendage to Application for
Respondent.	)	Post- Conviction Relief
	)	

The Applicant, Alexander M. Coreano, # 35664, comes before this Honorable Court, proceeding pro se, to offer the following appendage to his Application for Post Conviction Relief concerning Indictment No (s): 2011GS2302474 and 2011GS2305010.

In regards to question number ten (10) of page three of the Application for Post Conviction Relief:

State concisely the Grounds on which you base your allegation(s) that you are being held in custody unlawfully.

- A. Ineffective Assistance of Counsel;
- B. Coerced into plea of guilty;
- C. Counsel failed to advise his client as to his right to appeal;
- D. Community Service Program (CSP) Unlawfully Applied to Sentence;

In regards to question number eleven (11) on page three (3) of the Application for Post Conviction Relief:

[A]. Ineffectiveness Assistance of Counsel

Applicant was denied his Sixth and Fourteenth Amendment right(s) to an effective assistance of counsel insofar as his trial counsel failed to provide competent representation and these omissions were prejudicial to his defense.

The Applicant's counsel failed to properly investigate the facts surrounding the circumstances that lead to his arrest. It has been clearly established that the amount of pre-trial research, or the lack thereof, can most definitely affect the outcome of a criminal defendant's trial. Davis v. Alabama, 100 S.Ct. 1827 (1980).

Effective assistance of counsel, i.e., that which will satisfy the requirements of the Sixth Amendment, is counsel that will be "reasonably likely to render and rendering reasonably effective assistance given the totality of the circumstances." Washington v. Strickland, 693 F.2d 1243, 1250 (CA5, 1982)(en banc) Cert. Granted, 466 U.S. 668, 104 S.Ct. 2052 (1984); Lockhart v. Fretwell, 113 S.Ct. 838 (1993); Mays v. Balkcom, 631 F.2d 48, 52, n. a (CA5, 1980).

In considering the totality of the circumstances, a court must examine the quality of counsel's assistance from the time of initial retention, through the time of appeal. Goodwin v. Balkcom, 684 F.2d 794, 805 (CALL, 1981); State v. Williams, 571-SE2d 703 (Ct. App. 2002).

Would not justice best be served once a criminal defendant raised the issue of ineffective assistance of counsel, and the court determines there is a question of whether the defendant received effective assistance of counsel, should not the court allow the Applicant be granted a hearing regarding the issue?

[B]. Coerced into plea of guilty

The Applicant contends that his plea cannot be considered voluntary, due to him being denied effective assistance of counsel, and that the plea was brought about by ignorance, and the lack of competence on the part of his attorney, by issuing erroneous advice as to the plea entered by the Applicant. Hinson v. State, 377 SE2d 338 (1989).

The Applicant makes the following allegations concerning his plea:

- (1) Counsel did not actually or substantially assist him in deciding whether to plead guilty or not;
- (2) Counsel did not familiarize himself with the facts of the case;
- (3) Counsel did not impart to the Applicant an understanding of the law on the relation of the facts;

(4) Counsel issued erroneous advice to the Applicant as to the length of the sentence he would receive by entering his plea;

(5) Counsel issued advice to the Applicant to the effect that no defense was possible to his charge;

(6) Counsel coerced the Applicant into entering his plea by making threats as to length of sentence he would receive by not pleading guilty.

For a plea to be entered knowingly and voluntarily, a criminal defendant must possess an understanding of the law in relation to the facts. See McCarthy v. U.S., 89 S.Ct. 1171 (1969). Providing this understanding of the law in relation to the facts is the function of the accused's counsel.

Note: Now should we ignore the Supreme Court's admonition in Argersinger v. Hamlin, 407 U.S. 25, 92 S.Ct. 2006 (1972), to the effect that "beyond the problem of trials and appeals is that of the guilty plea, a problem which looms large in misdemeanor as well as felony cases." Counsel is needed to that the accused may know precisely what he is doing, so that he is fully aware of the prospect of going to jail or prison, and so that he is treated fairly by the prosecution.

Can this be said by the Applicant after relaying on the advice of his counsel, that by him pleading guilty after being told by his attorney that no possible defense existed when, in fact, at least one plausible line did? Then could it be said that the Applicant prior to entering his plea possessed an understanding of the law with regards to the facts?

It should not be assumed that counsel had contributed to the case where he concluded there was no defense possible, and that he exercised his best judgment in advising his client to plead guilty. Neither the attorney nor the Court could say what a prompt and thorough investigation might disclose as to the facts, or what defenses could be yielded?

In Powell v. Alabama, 287 U.S. 45, 53 S.Ct. 55 (1933), the Court stated: "the right to be heard would be, in many cases, of little avail, if it did not comprehend the right to be heard by counsel."

Even in today's media driven society, the intelligent and educated laymen have little or sometimes no skills in the science of law. If charged with a crime, he is incapable, generally, or

determining for himself whether the indictment is good or bad. He is unfamiliar with the Rule of Evidence. Left without aid of counsel, he may be put on trial without a proper charge and convicted upon incompetent evidence or evidence irrelevant to the issues or otherwise inadmissible. He would lack both the skill and knowledge adequate to prepare his defense, even though he may have a perfect one. He requires the guiding hand of counsel at every step in the proceeding against him. Without it, though he may be not guilty, he faces the dangers of conviction, because he does not know to establish his innocence, as was in the case of the Applicant.

In this regard, the applicant contends that had it not been for his counsel's offering of advice, which was based on information obtained directly from the State, and not as the fruit of its own investigation, that he would not have entered the plea of guilty that he did.

The Applicant contends that his counsel, from the outset, began to speak of a guilty plea which counsel saw and portrayed as the Applicant's only opportunity for a reduced sentence. Counsel painted a bleak picture to the Applicant with little or no hope concerning the likelihood and outcome of any planned trial. Counsel should have enlightened the Applicant about his so-called on-going deal making with the solicitor. The Applicant, faced with the pressure of the solicitor's office and his own counsel concerning the length of sentence the Applicant would receive if convicted by a jury finally caved into the demand for his plea of guilty.

The Applicant can see no reason behind the thought that his counsel be considered as having rendered anything near effective assistance to the Applicant. The Applicant would further offer that he has clearly met the burden of proof essential in the two (2) prong requirements under Strickland v. Washington, supra. There, based on the foregoing, the Applicant strongly feels that he is entitled to a correction of sentence and judgment, and to have this matter remanded back to the Court of General Sessions for re-hearing.

[C]. Counsel failed to advise his client as to his right to appeal

In addition, the Applicant contends that counsel failed to advise him as to his right of appeal. The accused is entitled to be made aware of this right to appeal as an element of effective assistance of counsel. Weather v. State, 459 SE2d 838 (SC 1995); White v. State 208 Se2d 35 (SC 1974).

The Applicant was not advised of his right here, doubtless because at the time counsel's misrepresentation of the facts was not clearly understood by the Applicant. Even if his advice on this point would have amounted to a mere formality, the accused was nonetheless entitled at the very least to be made aware of this right to appeal, even in the wake of his plea. The Applicant contends this claim raises a question of fact that cannot be refuted by the record, and request an evidentiary hearing to fully resolve the issue.

[D]. Community Service Program (CSP) Unlawfully Applied to Sentence

The Applicant recently learned of the State imposing a two (2) year supervision period under the Community Supervision Program (CSP) upon every violent offender after being released from the Department of Corrections.

The Court authorized the State to incarcerate the Applicant for the term of the mandatory minimum sentence imposed, no more. Any addition to that sentence not imposed by the judge is unlawful. Early v. Murray, 451 F3d 71 (2006).

By this action, the State has subjected the applicant to further custody upon his release from Department of Corrections by way of the Community Supervision Program (CSP), admitting of the possibility of revocation and additional jail time, as CSP is considered to be in 'custody'. Early, supra.

Federal and State Supreme Courts have established that the sentence imposed by the sentencing judge is controlling. Hill v. Wampler, 298 US 464 (1936). Even if the belief that the judge's failure to mention the CSP term at the Applicant's sentencing was an "oversight," when a judge fails to impose a custodial element of a sentence, that element is not a part of the sentence, regardless of whether that failure

was due to oversight or to customary practice Early." Only the judgment of a Court, as expressed through the sentence imposed by a judge, has the power to constrain a person's liberty," Early. And that judgment includes only those terms expressly imposed.

Therefore, when the sentence as imposed by the sentencing judge is purportedly altered to reflect something other than the sentence imposed, the source of that alteration is immaterial whether it is the Department of Corrections administration or the operation of South Carolina Law that works the alteration, that alteration is of no effect.

The Applicant further contends the exercise of sentencing authority by the Department of Corrections would violate the separation of powers doctrine. State v Archie, 470 S.E.2nd 380 (Ct. App. 1996), and based on the forgoing, contends that this claim too raises a question of fact that cannot be refuted by the record, and request an evidentiary hearing to fully resolve the issue.

Conclusion

Although a Post-Conviction Relief Applicant alleging ineffective assistance of counsel must ordinarily show actual prejudice, he may be relieved of that burden if counsel's ineffectiveness is so pervasive as to render a particularized prejudice inquiry unnecessary.

The Applicant maintains that the right to effective assistance of counsel may be violated by even an isolated error of counsel if the error is sufficiently egregious and prejudicial. Murray v. Carrier, 477 U.S. 478 (1986), as was the case here. And because finality within the doctrine of *res judicata* does not attach to every ruling upon law made by a judge upon the decision of a motion. The Applicant is entitled to an evidentiary hearing on these issues.

According to S.C. Code § 17-27-80, a hearing shall be had on any properly filed motion for Post-Conviction Relief, in fact, it has been ruled error to issue a conclusion of facts and law upon such a motion without first hearing the facts of the matter. McCray v. State, 305 S.C. 329, 408 SE2d 241 (1991). This is especially true in cases where ineffective of counsel issues are raised, as such are often not able to be determined merely upon the record and must therefore rely upon evidence developed during an evidentiary

hearing. Delaney v. State, 238 SE2d 679 (1977), evaluating the precursor to the modern Post-Conviction Relief Act, the Supreme Court of South Carolina stated that an allegation in an application for Post-Conviction Relief that a petitioner did not have the effective assistance of counsel in violation of his rights under the Sixth Amendment of the Constitution of the United States set forth a "prima facie" violation of the petitioners Constitutional rights and raises a question of fact that can only be determined by a trial court in an evidentiary hearing. Rogers v. State, 199 S.E. 2nd 761 (1973).

Therefore, based on the forgoing, the Applicant reiterates the fact that these claims raise a question of fact that cannot be refuted by the record, and request an evidentiary hearing to fully resolve the issue.

Relief Sought

As such, the Applicant respectfully requests that this Honorable Court grant his motion for Post-Conviction Relief or at a minimum, grant him an evidentiary hearing.

The Applicant further prays that this Honorable Court insure that justice and fair play prevail, by taking whatever measures necessary to examine every issue and fact, insuring a fair and just decision.

So prays the Applicant

Respectfully submitted,

This 5th day of August, 2014

Alexander Maldonado Coreano

Alexander Maldonado-Coreano, # 356641

RCI/ GA-57

PO Box 2039

Ridgeland, SC 29936

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2014-CP-23-4668
COUNTY OF GREENVILLE	)	
	)	
Alexander M. Coreano,	)	
a/k/a Alexander Maldonado-Coreano,	)	
a/k/a Josue Sanchez-Moreno,	)	
S.C.D.C. No. 356641,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

In response to the post-conviction relief application filed August 22, 2014, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the November 2011 term of General Sessions for possession of cocaine (2011-GS-23-2474), trafficking cocaine (2011-GS-23-5010, count 1), and possession of a weapon during commission of a violent crime (2011-GS-23-5010, count 2). Matthew Pinckney, Esquire represented the Applicant.

On August 14, 2013, the Applicant pled guilty pursuant to North Carolina v. Alford, 400 U.S. 25, 91 S. Ct. 160 (1970). The Honorable J. Mark Hayes, II sentenced the Applicant to concurrent terms of 3 years for possession of cocaine, 12 years for trafficking cocaine (28-100 grams), and 5 years for possession of a weapon during commission of a violent crime. The Applicant did not appeal.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject convictions and the Applicant's records from the South Carolina Department of Corrections. The plea transcript will be forwarded upon receipt.

II.

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

1. Ineffective assistance of counsel:
 - a. "[F]ailed to properly investigate the facts surrounding the circumstances that lead to [the Applicant's] arrest."
2. "Coerced into plea of guilty."
 - a. Counsel failed to assist the Applicant in deciding whether or not to plead guilty.
 - b. Counsel did not familiarize himself with the facts of the case.
 - c. Counsel did not "impart to the Applicant an understanding of the law on the relation of the facts."
 - d. Counsel gave "erroneous advice to the Applicant as to the length of the sentence he would receive by entering his plea."
 - e. Counsel gave advice to the Applicant "to the effect that no defense was possible to his charge."
 - f. Counsel "coerced the Applicant into entering his plea by making threats as to length of sentence he would receive by not pleading guilty."
3. "Counsel failed to advise his client as to his right to appeal."
4. "Community Service Program (CSP) Unlawfully Applied to Sentence."

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v.

Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel “rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305

S.E.2d 247, 248 (1983).

IV.

The Applicant's assertion that his guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An Applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the Applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An Applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985); Bennett v. State, 371 S.C. 198, 204, 638 S.E.2d 673, 675 (2006).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969). In Boykin, the United States Supreme Court held that before a court can accept a guilty plea, a criminal defendant must be advised of the constitutional rights he is waiving. Id. at 243, 89 S. Ct. at 1712. Specifically, the accused must be aware of the privilege against self-incrimination, the right to a jury trial, and the right to confront one's accusers. Id. Moreover, a criminal defendant entering a guilty plea "must be aware of the nature and crucial elements of the offense, the

maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citation omitted). A criminal defendant’s knowing and voluntary waiver of statutory or constitutional rights in a guilty plea “must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant’s counsel, or both.” Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000).

When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

The Respondent submits the record fully supports the knowing and voluntary nature of the Applicant’s plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. at 265, 305 S.E.2d at 248.

V.

The Respondent denies each allegation not expressly admitted, qualified or explained.

VI.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

January 8, 2015

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2014-CP-23-4668

ALEXANDER M. COREANO, 356641)

a/k/a ALEXANDER MALDONADO-COREANO,)

a/k/a JOSUE SANCHEZ-MORENO)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

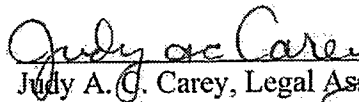
STATE OF SOUTH CAROLINA,)

Respondent.)

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

Alexander Maldonado Coreano, 356641
Ridgeland Correctional Institution
Post Office Box 2039
Ridgeland SC 29936

DATED this 8th day of January, 2015.


 Judy A. G. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2014-CP-23-4668
	)	
	)	
ALEXANDER MALDONADO COREANO	)	
APPLICANT)	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
THE STATE OF SOUTH CAROLINA	)	
RESPONDENT)	)	

ORIGINAL

December 15, 2017
Greenville, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILWELL, Judge.

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

RICHARD WARDER, ESQ.
Attorney for the Applicant

DESHAWN MITCHELL, ESQ.
Attorney for the Respondent

APRIL HERRON
Official Court Reporter

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There were no exhibits.

» > ○ < «

Certificate of Reporter 35

1 THE COURT: Okay, yes, sir.

2 MR. MITCHELL: May it please the Court, Your
3 Honor. This is 2014-CP-23-4668. Alexander Coreano
4 vs. The State of South Carolina. The Applicant is
5 presently incarcerated in the South Carolina
6 Department of Corrections pursuant to Orders of the
7 Greenville County Clerk of Court. The Greenville
8 County Grand Jury indicted The Applicant at the
9 November 2011 term of General Sessions Court for
10 possession of cocaine, trafficking in cocaine and
11 possession of a weapon during the commission of a
12 violent crime. Mr. Matthew Pinckney represented The
13 Applicant.

14 On August 14th, 2013, The Applicant pled guilty
15 pursuant to North Carolina v. Alford. The Honorable
16 J. Mark Hayes, II, sentenced The Applicant to
17 concurrent terms of three years for possession of
18 cocaine, twelve years for trafficking cocaine and
19 five years for possession of a weapon during the
20 commission of a violent crime. The Applicant did not
21 appeal. He is present in the courtroom today and
22 represented by Mr. Warder.

23 THE COURT: Okay, Mr. Warder.

24 MR. WARDER: May it please the Court, I call The
25 Applicant, Mr. Coreano, to the stand.

ALEXANDER COREANO-DIRECT BY MR. WARDER

1 THE COURT: Let's swear in the interpreter first
2 and then we'll call him to the stand.

3 (WHEREUPON, The Interpreter was sworn.)

4 THE CLERK: Please state your full name for the
5 record.

6 THE INTERPRETER: Martin Pollock.

7 THE CLERK: Thank you, very much.

8 THE COURT: You can come up, come forward.

9 (WHEREUPON, the following testimony by
10 Mr. Alexander Coreano was translated by the
11 interpreter.)

12 THE CLERK: Mr. Coreano, please step over here
13 to the Bible. Place your left hand on the Bible and
14 raise your right hand.

15 Alexander Coreano, after being duly sworn,
16 testified as follows:

17 THE CLERK: You may be seated. State your name
18 for the record.

19 THE WITNESS: Alexander Coreano.

20 DIRECT EXAMINATION

21 BY MR. WARDER:

22 Q Mr. Coreano, by the way of background on this
23 case, you originally hired me to represent you; is that
24 correct?

25 A Yes, sir.

ALEXANDER COREANO-DIRECT BY MR. WARDER

1 Q Okay. Then there come a time you wished to
2 change counsel and you hired Mr. Pinckney to represent
3 you?

4 A Yes.

5 Q Then you got -- entered a guilty plea to these
6 charges?

7 A Yes.

8 Q And you received a sentence of 12 years in the
9 Department of Corrections?

10 A Yes.

11 Q And you filed a pro se PCR Application, one that
12 you prepared in the prison; is that right?

13 A That is correct.

14 Q Then you hired me to represent you?

15 A That is right.

16 Q And you don't have any objection to my
17 representing you in this hearing here today based in any
18 way because I represented you earlier; is that correct?

19 A No, of course, not.

20 Q And prior to coming into the courtroom, you and
21 I discussed whether or not you understood English well
22 enough to hold a hearing without an interpreter; is that
23 right?

24 A That is right.

25 Q Okay. And you agreed to go forward without one

ALEXANDER COREANO-DIRECT BY MR. WARDER

1 but we got an interpreter here now and you want to use his
2 services just to make sure you understand everything?

3 A That's right.

4 Q Okay. Now, I want to direct your attention to
5 the application that you filed. You allege in your
6 application that you had ineffective assistance of
7 counsel; is that correct?

8 A Yes.

9 Q Okay. And you allege that the investigation was
10 insufficient to the facts surrounding your arrest, can
11 you--

12 A That's right.

13 Q Will you tell His Honor what was insufficient
14 about the investigation in this case?

15 A Your Honor, I like to say first of all,
16 Mr. Pinckney left me here for 28 months, which was for
17 approximately two years. He went to Afghanistan. I'd
18 like to put this in the record but I'm not sure that I
19 would be allowed to.

20 MR. WARDER: Your Honor, I'm having trouble, I
21 can't hear the interpreter.

22 THE COURT: You can come forward, if you'd like
23 to. You can get close enough so you can hear.

24 THE WITNESS: If you can read these documents
25 for me it would be very important because here I

ALEXANDER COREANO-DIRECT BY MR. WARDER

1 explain in detail everything.

2 BY MR. WARDER:

3 Q Okay. Can you explain in detail to His Honor
4 what -- what. . .

5 A Yes, of course. I contracted Richard Warder
6 since my arrest. He got me an offer of seven years. I
7 signed the offer. But I spoke to my family about what
8 happened. I spoke to my family about what happened
9 because I did not feel guilty about what happened. And
10 so, at that point, I decided to dismiss Mr. Warder. And I
11 contracted my new services. And Mr. Pinckney said he
12 needed to go to a mission to Afghanistan and that he would
13 be gone for a year. Turns out that year turned into two
14 years and I didn't know anything about him. I was
15 exasperated and called my family and said I needed to know
16 something about him, where is he? When they heard that I
17 was so exasperated, one of his workers came from his
18 office came to me see and said for me the calm down, that
19 he would be arriving shortly.

20 After two long years of waiting, he showed
21 up all of a sudden saying that I needed to sign this
22 pleading guilty for an offer of 12 years. And if I
23 didn't, I might could get up to 45 years. I said that I
24 couldn't do that because I had an offer already from
25 Mr. Warder for seven years. And he said if I didn't do

ALEXANDER COREANO-DIRECT BY MR. WARDER

1 that, then I could get the maximum penalty. Practically,
2 I had to sign it because I practically felt threatened if
3 I didn't sign it.

4 Q Did you discuss the facts with your lawyer? Did
5 you go over the evidence with him?

6 A Very few times. Basically, the only time is
7 when he came to say that he was going to Afghanistan. And
8 then the last time that he came to say that he had a deal
9 for 12 years.

10 Q Okay. Did you -- did you hear the tape
11 recordings in the case?

12 A No, I never heard anything.

13 Q Did you have the report of the officer saying
14 why they came and what they did?

15 A The reports of when -- no, I didn't have any
16 reports.

17 Q Okay. Did you receive at any time what we call
18 the discovery, which is the file that has the statements
19 and the incident reports and things like that in it?

20 A Excuse me, the what? The reports or the
21 evidence?

22 Q The officers write a report when they get back
23 to police station after an arrest.

24 A Oh, yes, I did receive that report.

25 Q Okay. Did you and Mr. Pinckney go over that

ALEXANDER COREANO-DIRECT BY MR. WARDER

1 report?

2 A No.

3 Q Okay.

4 A I gave him all my information. Basically, I
5 didn't have any interviews with him outside of when he
6 came to say that he was going on his mission and then when
7 he came back.

8 Q Okay. So, you would have had the initial
9 interview with Mr. Pinckney when you hired him; is that
10 right?

11 A Yes.

12 Q And the next time you would have discussed the
13 case with him is when you were discussing taking a guilty
14 plea; is that right?

15 A That's right.

16 Q And the second time you had any discussion with
17 him, what time period was that within relation to when
18 they were going to take you to trial?

19 A He came to me, it was on August 13th, 2013. A
20 day before the hearing saying that I needed to sign the
21 paper for the 12 years.

22 Q Okay. And if you did not sign the paper, when
23 would you go to trial?

24 A He told me like right at that moment.
25 Basically, at that moment that they were going to take me

ALEXANDER COREANO-DIRECT BY MR. WARDER

1 to trial. I really didn't understand very well.

2 Q Okay. Did they ever talk to you about the
3 effects of the trial docket, that you were on the trial
4 docket and there was a list of cases that would be called?

5 A Yes. He told me that if I were not to accept
6 the 12 years at that moment, that I would go to trial.

7 Q Okay. How long did you have to deliberate from
8 when you learned the offer until you actually had to sign
9 it and go before The Judge?

10 A He said that -- he arrived one evening by
11 surprise and said if I did not sign it then, the next day
12 I would be in front of a grand jury. I refused
13 completely, I did not sign anything. He said that -- he
14 came back the next day and he said that I needed to sign
15 for the 12 years. If not, then I would be going to the
16 grand jury immediately. And he didn't have time to
17 prepare because he had just gotten back.

18 Q Okay. And how long had he been back from
19 Afghanistan?

20 A For how long? I didn't understand the question.

21 Q Pardon?

22 A I didn't understand the question.

23 Q Okay. Did Mr. Pinckney come and see you as soon
24 as he came back from Afghanistan?

25 A No, he just came the day before the hearing.

ALEXANDER COREANO-DIRECT BY MR. WARDER

1 Q Okay. And you had no chance to go over the
2 facts and talk about how the law applied to your case?

3 A No. In the transcription he said that he had
4 explained everything to me at the last minute. We were
5 arguing about it for about three hours. I refused to
6 plead guilty. And when I told him that I was going to try
7 the get a hold of Mr. Richard again to ask him if we could
8 go forward with the deal of seven years, he said that I
9 was offending his ethnics as a lawyer.

10 Q You say in your application for Post-Conviction
11 Relief that you felt you were coerced into pleading
12 guilty; is that true?

13 A Exactly, exactly.

14 Q Okay. You say that he failed to assist you in
15 deciding whether to plead guilty, what do you mean by
16 that?

17 A He never visited me to tell me what was going on
18 with my case during the 28 months I was in.

19 Q You allege in your application that he --
20 counsel did not familiarize himself with the facts of the
21 case. Is the basis of that because he never had occasion
22 to come and talk to you and discuss the facts of the case
23 as you knew them?

24 A Of course.

25 Q Okay. And you say that your counsel did not --

ALEXANDER COREANO-DIRECT BY MR. WARDER

1 and part of the understanding on the law of the facts, is
2 that because you never discussed the law and the facts
3 that you had observed or you knew?

4 A Yes, that's why I wrote that.

5 Q And all of this took place in the three hour
6 discussion before the plea was entered?

7 A Exactly.

8 Q You also say that your counsel gave you
9 erroneous advice as to the amount of time that you would
10 serve of that sentence?

11 A Yes, I said that because Mr. Warder had said
12 that I would get a deal for seven years. So, that's why I
13 thought that.

14 Q Okay. Did Mr. Pinckney tell you any specific
15 length of time that you would serve on that sentence?

16 A How much time I was going to serve? What do you
17 mean? I don't understand the question.

18 Q When he told you about a 12 year offer, did he
19 tell you how long you would be in jail on that 12 year
20 offer?

21 A He said if I didn't accept the 12 year offer I
22 could be in jail for up to 45 years.

23 Q Okay. Did you expect that you didn't have to do
24 the whole 12 years when you went to jail?

25 A No, because I thought it was irrelevant and just

ALEXANDER COREANO-DIRECT BY MR. WARDER

1 because we already had the offer for seven years. And
2 when he went to Afghanistan, he put in a motion not to
3 have the case go forward until he came back. I did not
4 know that this petition was two-edge sword. He said that
5 he was doing it to get me a better offer. Then when he
6 comes back he says I have to sign to get 12 years or they
7 can give me up to 45.

8 Q Okay. You allege also that he failed to tell
9 you about your right to appeal?

10 A He never told me anything about that.

11 Q Okay. Did you know you could appeal when you
12 went to jail?

13 A No, unfortunately I'm very ignorant about the
14 laws of this country.

15 Q You had people in jail that helped you
16 understand the law and understand where you were at?

17 A Yes, thanks to those persons that's why I'm
18 here. Since that happened I went to library and studied
19 about my case and discovered that there was a large error
20 in my case. It's unjust to leave a person like this like
21 myself there basically just left to my own luck when I
22 most needed him.

23 Q Okay. And the last thing in your application,
24 you allege that the Community Service Program was
25 unlawfully applied to your sentence; is that correct?

ALEXANDER COREANO-CROSS BY MR. MITCHELL

1 A Yes.

2 Q Okay. And the basis of that is your belief that
3 it wasn't in effect when you were sentenced and they
4 shouldn't be able to apply it now. Is that the basis of
5 that?

6 A Sir, could you say that again, please? Could
7 you say that again, please?

8 Q Okay. Can the Community Service Program came
9 into effect after this crime was committed, is that what
10 happened?

11 A Yes.

12 Q And is it your -- you don't think it should
13 apply to your sentence, is that what you're saying?

14 A That's right. That's what I think.

15 Q Have we covered all of the violations that you
16 refer to in your Post-Conviction Relief as ineffective
17 assistance of counsel?

18 A Yes.

19 Q Okay.

20 Would you, please, answer any questions
21 that the government might have.

22 CROSS-EXAMINATION

23 BY MR. MITCHELL:

24 Q Good afternoon, Mr. Coreano.

25 A Good afternoon.

ALEXANDER COREANO-CROSS BY MR. MITCHELL

1 Q I just have a few questions for you. Do you
2 recall when Mr. Warder represented you he presented you
3 with a seven year offer?

4 A Yes, sir.

5 Q Do you recall rejecting that offer?

6 A Yes.

7 Q Okay. Do you remember the day that you pled
8 guilty?

9 A Yes, I remember.

10 Q Do you remember The Judge going over all your
11 rights with you?

12 A Not very well. I think the interpreter that I
13 had was not efficient at that moment.

14 Q Do you recall or do you remember The Judge
15 asking you about the sentences and the crime that you were
16 pleading guilty to?

17 A Yes, I remember that The Judge asked me some
18 things. But at that point, given the fact that I had
19 signed for the seven years and I had that offer, then when
20 I was there in front of The Judge now and everything was
21 different, I just felt like completely deceived, like I
22 was almost dead.

23 Q I thought you said you rejected the seven year
24 offer that was brought to you?

25 A Yes, because I didn't feel I was completely

ALEXANDER COREANO-CROSS BY MR. MITCHELL

1 guilty of the charges.

2 Q Okay. Do you remember at the guilty plea when
3 The Judge asked you if you were satisfied with your
4 attorney?

5 A Really do not remember. Because the pressure
6 that my lawyer had placed on me was so tremendous I just
7 was like out of place.

8 Q Did you ever tell the interpreter that you
9 didn't understand the things that she was saying to you?

10 A I tried to tell her but I don't know if she was
11 just convinced of what the lawyer was doing and what
12 they're doing to me.

13 MR. MITCHELL: Judge, that's all the questions I
14 have. I would just note for the record that the
15 colloquy is present on Pages 5 through 6 in the
16 transcript of the guilty plea.

17 THE COURT: Okay, thank you, sir, I appreciate
18 it.

19 Any redirect, Mr. Warder? Any redirect?

20 MR. WARDER: No, Your Honor.

21 THE COURT: Okay.

22 All right, sir, Mr. Coreano, you can step down
23 thank you for being here.

24 Anything further from The Applicant? Anything
25 further, Mr. Warder?

MATTHEW PINCKNEY-DIRECT BY MR. MITCHELL

1 MR. WARDER: Just one moment.

2 THE COURT: Sure.

3 MR. WARDER: Your Honor, that would be the case
4 for The Applicant.

5 THE COURT: Okay, thank you very much.

6 Anything from The State?

7 MR. MITCHELL: Yes, Your Honor, The State would
8 call Mr. Pinckney to the stand.

9 THE CLERK: Mr. Pinckney, please place your left
10 hand on the Bible, raise your right hand.

11 Matthew Pinckney, after being duly sworn,
12 testified as follows:

13 THE CLERK: Thank you, you may be seated.
14 Please state your full name for the record.

15 THE WITNESS: Matthew P. Pinckney.

16 DIRECT EXAMINATION

17 BY MR. MITCHELL:

18 Q Good afternoon, how are you doing?

19 A Good afternoon. I'm fine, how are you doing?

20 Q I'm doing well. How long have you practiced law
21 here in South Carolina?

22 A Since May of 2008. So, coming up on 10 years.

23 Q Okay. And how much of that time has been
24 devoted to criminal law?

25 A All of it.

MATTHEW PINCKNEY-DIRECT BY MR. MITCHELL

1 Q All of it. Okay. In this particular case were
2 you retained, correct?

3 A Yes, I was.

4 Q Okay. Could you tell me, just for the record's
5 sake, and it can be brief, the facts surrounding the
6 charges that Mr. Coreano received?

7 A Okay. Yes, he was the subject of an ongoing
8 investigation. There was a search warrant executed. And
9 they found, I want to say it was around the neighborhood
10 of 230 grams of cocaine. And that's pretty the much it.
11 I mean, they were able to -- they went back and they had
12 fingerprints on, you know, on the baggies, on the plastic
13 baggies that contained all the cocaine. It was split up
14 in a few different baggies. They were able to do that.
15 They found a pistol in his residence. Those are the
16 essential facts.

17 Q After he got charged with the crimes, did you
18 get the discovery and all the evidence in this case?

19 A Yes, I did.

20 Q Did you go meet with him and talk to him about
21 the discovery that you had?

22 A Yes, I did.

23 Q Okay.

24 A If I may, I got the case in December. About
25 this time, right coming up on Christmas, the holidays. I

MATTHEW PINCKNEY-DIRECT BY MR. MITCHELL

1 filed my notice of representation, request for a jury
2 trial, request for discovery, brady motion and a motion to
3 suppress. All at the same time, the 20th of December of
4 2011. And I wound up deploying to Afghanistan in
5 beginning of March 2012. Very short notice that I
6 received. I had already been working on this case. As a
7 matter of fact, I remember in particular working the day
8 after Christmas on this case a one other that I had.

9 Q Okay.

10 A Just trying to clear things out for the new
11 year. Then I found I would be deploying. I think I
12 received my orders within -- it was right a month's
13 timeframe before I actually left. Which would have been
14 early February.

15 Q So, how much time between while you were in
16 Afghanistan and when he pled, how much time past; do you
17 recall at all?

18 A Yes. I heard Mr. Coreano's testimony. I was
19 gone for two years. I think it's interesting that I
20 didn't have his case for two years. I was gone actually
21 in Afghanistan and actually performing duty here in the
22 states both just before and just after. I wasn't in
23 deployment cycle, redeployment cycle for very long. I was
24 in Afghanistan for most of that time. For a solid year.
25 I left the very beginning of March among orders and left,

MATTHEW PINCKNEY-DIRECT BY MR. MITCHELL

1 I think, it was around the first second week of March. I
2 returned, I think, I had about the week left in February
3 of '13. And it took me a few days to redeploy before then
4 and I was back home. And I was actually on block leave,
5 was on orders for another 30 days. However, I went back
6 to work within days of returning.

7 Q Okay. Turning--

8 A So, it was a 12 month period that I was actually
9 gone.

10 Q I apologize for interrupting you.

11 A I'm sorry.

12 Q Turning our attention back to the investigation,
13 is it safe to say that you discussed the elements of the
14 offenses that Mr. Coreano was facing and the potential
15 sentences that he would be facing if he was found guilty
16 or if he pled guilty?

17 A It's not only safe to say but I find it
18 interesting that he alleges I met with him, you know, just
19 before the -- to tell him I was going to Afghanistan and
20 just before, the night before, his plea hearing. I met
21 with him numerous times. And while I was in Afghanistan,
22 I had an attorney, we had already arranged all of this
23 with Mr. Maldonado [verbatim]. As a matter of fact, I
24 remember telling him about my deployment that was coming
25 up. And I remember having a lengthy discussion with him

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1 about it.

2 And there was one other client I had that
3 was in a very similar situation, he was here in the
4 Greenville County jail. And I discussed this issue with
5 those two. And there was only one other case that I had
6 that was a big question mark for me, we had a incarcerated
7 defendant, a federal case down in Columbia. And I had
8 this discussion with these individuals. And these were
9 the toughest ones. Out of all my clients that I had to go
10 through and talk with and make arrangements in order to be
11 able to deploy, these were the toughest ones because they
12 were in jail. And they had cases that we had been working
13 on, we'd been putting a lot of time into. Because of --
14 we saw something there. We were working these cases. And
15 there were some things that we were really involved with.

16 In this particular case, I went to him and
17 I remember leaving and feeling like a weight had been
18 lifted off my shoulders because our discussion went well.
19 He actually seemed relieved. I explained that I would be
20 protected. However, I also explained that thoroughly and
21 I think that his testimony today contradicts what our
22 conversation was about. I explained that I would be
23 protect due to my military service. And we tried to
24 achieve his goal, which was 10 years. It was seven years.
25 Seven years didn't come up to much later. It was 10

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1 years. He was being offered 12 years. He also says that
2 I didn't explain how much time he was going to, actually,
3 be doing. We absolutely did that over and over. I
4 explained to him that he would be doing 85 percent of that
5 time at a minimum. And we, actually, engaged in
6 discussions with the prosecution about the possibility of
7 changing into a distribution charge. In order to
8 hopefully be able to get him near the 12 year number but
9 get him to what he wanted. Which was more like a 10 year
10 sentence. And that didn't work. But we tried that before
11 and after I left for Afghanistan and during. Because we
12 had another attorney that was -- that was heavily involved
13 in this case. I have an investigator in my office who is
14 the former chief of the DEA for Greenville County that was
15 also working, perfect person for that job. We were
16 tearing this thing apart.

17 Q Let me stop you right there, Mr. Pinckney. Did
18 Mr. Coreano seem to understand everything that you were
19 relaying to him?

20 A He absolutely did. He testified that he doesn't
21 understand the laws of this country very well. He seems
22 to understand them very well. And I thought that he was,
23 actually, as far as my clients go, I felt like he was
24 certainly, forget my clients, just the whole spectrum of
25 society, he's above average intelligence. And I was

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1 impressed with that. Because my conversations with him
2 were always very easy. I was always -- I always seem to
3 beat a dead horse to make sure my clients understand
4 what's going on. But in this particular case, I always
5 felt very comfortable that he understood. And he was
6 absolutely able to assist in his defense.

7 Q Fair enough. Was there ever a language barrier?
8 Was there an interpreter?

9 A No, I speak Spanish fluently. And I always
10 bring an interpreter who actually, from my office, who I
11 actually prefer to use in court when I can because I've
12 have, not here in Greenville County but in other counties,
13 I had problems with interpreters that makes some
14 outlandish things up on the fly. I, obviously, can't
15 interpret in the court hearing. So, I bring that
16 individual with me for me every meeting that I have. To
17 make sure just that I'm not missing anything. Just
18 another set of ears. I would do the same thing. I like
19 to have somebody there with me from my office if I'm
20 speaking with a client that speaks English as their first
21 language as well for the same reason.

22 Q Okay. Let me ask you this, on the day of the
23 guilty plea, did The Applicant seem not to understand what
24 The Judge was saying to him?

25 A No. He seemed to be -- no, he understood very

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1 well. He was angry. There's no doubt it. He may have
2 been angry with me. I mean, you know, I gave him no
3 reason to be angry with me. However, I believe that he
4 was angry with his circumstances that he found himself in.
5 He wanted a third option. He wanted another alternative.
6 And I explained to him, not just that date -- as matter of
7 fact, I didn't expect that meeting to go on as long as it
8 did. I think that's -- three hours is probably pretty
9 accurate if it wasn't longer. I really didn't expect that
10 that day because we had had so many conversations about
11 this and we covered all this ground.

12 And I think that I started to hear about
13 seven years as we start to realize that the offer is
14 simply not going to change. We asked for additional
15 documents. We were going down one road and we realized
16 that it was not going to change. So, then I started
17 hearing about seven years. And he told me that he had
18 Mr. Warder as his counsel and that he had been offered
19 seven years.

20 I said, Well, that's the first I've heard
21 of this. You know, why are we bringing this up now?

22 He said, No, I got seven years.

23 And he insisted. I had conversations with
24 the former prosecutor, Assistant Solicitor, Mr. DeLoach.

25 I had conversations with Joyce Monts, with her

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1 investigator, Sonya Browning. I had conversations with
2 Mr. Warder. Both in the hallway and I called his office
3 as well. And he confirmed that, No, that he had had the
4 opportunity to go back and check and that he had not
5 received any such offer. My understanding from
6 Mr. DeLoach when I first got the case was that he had been
7 offered 15 years. And I don't know but that's what I had
8 been told. He been offered 15 years, his wife tore up the
9 sentencing sheet in the open court, or in the courtroom,
10 at least, and made a big spectacle. Mr. DeLoach was not
11 very happy with that but I feel like he's a very fair
12 prosecutor. We talked some more. He told me that he was
13 considering just not making any more offers. But I ask
14 him to please reconsider. He said that he would
15 reconsider it but it would be something above what had
16 been offered before, which is above 15.

17 We peeled back some layers, this is all
18 before I left for Afghanistan; peeled back some layers.
19 Talked to him about some search warrant issues that we
20 had. And I got a call right back after he had spoken with
21 the investigators.

22 And he said, Okay, we'll do 12.

23 I could never get anything less than 12.
24 When I went to Afghanistan, the offer, technically, was
25 set to expire. However, he realized we were working

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1 towards trying to resolve this. And when I got back, I
2 immediately started working with Ms. Joyce Monts, who
3 honored that 12 year offer. However, I couldn't just
4 never get any better than 12 years and 85 percent.

5 Q Okay. Let me ask you this final question.
6 Considering the facts and circumstances in this case, do
7 you believe that this offer or this plea was in his best
8 interest?

9 A I do. But when I had my conversation with
10 Mr. Maldonado, my conversations with Mr. Maldonado about
11 this -- but I specifically remember when, you know, I was
12 able to go back to him and confirm that there's no seven
13 year offer and it's coming down to it. When I had my
14 conversation with him about that, my last conversation
15 with him about it, was the day of the plea. And I told
16 him that, normally, I have a strong opinion about what I
17 feel my client should do. For my part, I believe that
18 it's my responsibility to make sure that my client can
19 make an informed decision. Can understand how the facts
20 and the law relate in their case. And then they can make
21 an informed decision about what they want to do with their
22 case with my assistance. And if I have an opinion to
23 provide, I will. And I normally have a strong opinion.

24 In this particular case, I spoke
25 Mr. Maldonado and I told him, I do not have a very strong

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1 opinion about this one way or the other. Because on one
2 hand, you're looking at a 25 year sentence. If you go to
3 trial and you lose, you're looking at a 25 year sentence.
4 And my advice to him was I would consider making that
5 search warrant argument. But as we really started going
6 forwarded, appealing -- I talked with, again, the
7 solicitor himself, Ms. Betty Strom, his deputy, I talked
8 with a lot of people about this. Tried to staff this with
9 the investigators and with others. They were stopping on
10 12. They were pushing that 12. So, I felt like they knew
11 that they were going to have some work to do when it came
12 to testifying. But I felt that they had some dots to
13 connect, they absolutely could do that at the hearing. To
14 suppress that evidence.

15 However, if we don't win at that hearing,
16 at that level, then I felt if we proceed to trial, then
17 everything else is going to be an uphill battle. So, he
18 really has to think about whether he wants to go gamble on
19 that. Because he could gamble and win and we could win
20 the hearing and the drugs are suppressed, he walks out of
21 there. But if he doesn't walk out of there, there is no
22 other option. Twenty-five is what is the minimum he's
23 going to get. And then, on the other hand, he's got a
24 little bit less than half of that being offered to him as
25 a negotiated plea. We don't even -- I'm a little

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1 frustrated with those kinds of things because I'd like to
2 be able to, at least, have a range to argue. But in this
3 particular case, that's what it was. They said 12 or
4 trial.

5 So, it was, actually, in hindsight, made my
6 job a little bit easier. I was able to tell him I don't
7 really have a strong opinion. I don't know. I can't tell
8 you. I try to put myself in my client's shoes, what would
9 I do? I can't tell you what I would do. You have young
10 children, you want to be there to see them grow up as much
11 as possible, you want to be a part of their lives. But if
12 you're 25, that's pretty much out of the question. But
13 then again, if you're 12, that's still pretty much out of
14 the question. So what do you do?

15 And so, I was able to walk him through
16 every single pro and con of each of his options. I got
17 frustrated, but I understand this comes with the
18 territory, because he seemed to -- I would explain these
19 things to him and he understood what I was saying because
20 well, you know, Richard Warder's got seven years.

21 And I said, Dick Warder?

22 Yes.

23 Well, I've already talked to him about
24 that. Seven years never happened. I talked with
25 everybody about that. And unless they're lying to me,

MATTHEW PINCKNEY-CROSS BY MR. WARDER

1 seven years didn't happen. Even if it did happen, it's
2 not being offered now. And you don't have a right to an
3 offer. So, I don't know what you want me to do at this
4 point. So, I felt like there was no [indiscernible] this
5 is where we are. We did get the trial date extended
6 because of these issues that we were picking out. They
7 were slow to respond to us. And I was on their case here.
8 And I was burning bridges with folks up here because of
9 the fact that I was doggedly going after this. So, for
10 him to say that I come to him at the last minute and throw
11 some stuff on him and that he felt abandoned by me, that's
12 an insult to me.

13 Q Okay.

14 A Yes, sir.

15 MR. MITCHELL: That's all the questions I have
16 for you, please answer any questions Mr. Warder may
17 have for you.

18 CROSS-EXAMINATION

19 BY MR. WARDER:

20 Q Did you get the tape recordings of the buys?

21 A I did not. We asked for them, they said they
22 didn't exist.

23 Q They told you that the tape recordings that they
24 made of the confidential informant didn't exist?

25 A That's what they said.

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1 Q Okay. Did you go to the evidence room and look
2 at the bags, the box they were supposed to be in?

3 A No, I did not.

4 Q Okay. The house that Mr. Maldonado lived at,
5 had several occupants; is that correct?

6 A Yes.

7 Q And when I say several occupants, several grown
8 male occupants?

9 A No, he did not tell us that. He said that it
10 was him and his family that lived there.

11 Q You don't know who all that included?

12 A To the best of recollection, sir, that was his
13 wife, who was his common law wife, and two children.
14 Three children, excuse me.

15 Q Do you know whether other adults occupied the
16 bedroom that was found in, the cocaine was found in?

17 A That's the first I have ever heard that.

18 Q You said you filed -- had a question about a
19 meritorious issue on the suppression?

20 A Yes.

21 Q Okay. Did you file a specific motion on that?

22 A I filed a motion to suppress from the very
23 beginning on the search warrant issue.

24 Q What was wrong with the search warrant?

25 A I felt like there were a couple of things that

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1 were a little bit incredible about the search warrant.
2 First of all, there was some reference to the confidential
3 informant that says that Mr. Maldonado agreed to sell them
4 drugs but yet not to come by the house, that he would meet
5 him out somewhere. But I have the drugs at my house. And
6 that to me seemed strange. That was one of the things. A
7 couple of the buys in the beginning were a little bit
8 remote in time. We didn't have certain documents that we
9 should have to be able to make sure that all this was done
10 properly. ~

11 Now, we did get everything eventually.
12 But, apparently, our file was lacking. And when we went
13 back there was, I don't know if it was confusion or if it
14 was a lack of concern or what but we just simply had a
15 hard time getting some of these documents. But we finally
16 got them and we were able to put everything together. And
17 we were able to provide Mr. Maldonado with the information
18 that he needed to be able to make an informed decision on
19 this.

20 Q When did you get the last of the documents? Was
21 that before you came back or after you came back?

22 A We finally got the last of them after I came
23 back, of course.

24 Q Okay. Do you remember what the last documents
25 you got were?

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1 A I think it was the signed search warrant return.
2 I have an email that says there were like five things
3 thanking them for sending me the five documents I
4 requested. I think that was the -- that was the one thing
5 that I wound up getting last. I don't know what those
6 other five things were. I honestly can't tell you.

7 Q Did you check to see if the confidential
8 informant was still available, whether he was in prison or
9 not when you got back from Afghanistan?

10 A We did. And they said that the confidential
11 inform was. They had no problem going forward with this.

12 Q Well, did you seek to talk to him or?

13 A No.

14 Q You mentioned the factual issues that you found
15 unlikely in the affidavit, did you do anything to check
16 out those with any of the other witnesses?

17 A Yes, we did.

18 Q What did you find out?

19 A We found out -- I felt like they were
20 incredible. That this may cause a problem for them. They
21 explained to us how everything went, they walked us
22 through it.

23 Q Did the witnesses that you talked to, did they
24 confirm your belief that it was incredible?

25 A I still think that one of the things was

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1 incredible but my opinion doesn't really matter. They
2 said this is what happened, this is what they're going to
3 testify to. But if you look at everything in its
4 totality, all of the information that they had then, I'm
5 not so sure that we could sit on that anyway. And we
6 discussed this with Mr. Coreano. He told us for one thing
7 that he never sold drugs from that house.

8 And we said, Okay.

9 I believed him. Okay. Well, let's go
10 ahead and do this. But you have to understand, you know,
11 this is what we're getting into. And if you want to do
12 that, if you feel like there's something wrong here, then
13 let's have a Delaware v. Franks hearing. And let's, you
14 know, let's see what we can do. I was all for it. But my
15 concern is that I want to make sure that he knows what
16 he's doing.

17 Q When you had trouble getting discovery, did you
18 ever seek the help of the court? Did you ever address the
19 motion to compel?

20 A No, never came to that.

21 MR. WARDER: Thank you.

22 THE COURT: Anything further from The State?

23 MR. MITCHELL: No additional questions, Your
24 Honor.

25 THE COURT: Thank you, sir, you may step down.

1 Any additional witnesses?

2 MR. MITCHELL: No additional witnesses, Your
3 Honor.

4 THE COURT: Anything further from The Applicant?

5 MR. WARDER: No, Your Honor.

6 THE COURT: All right, I'll take the same under
7 advisement. Thank you, I appreciate it.

8 MR. WARDER: Thank you, Your Honor.

9 (WHEREUPON, the proceedings were concluded.)

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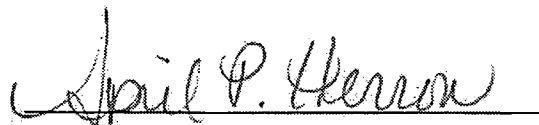
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, 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
15th day of December, 2017.

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

July 9, 2018



APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Alexander Maldonado Coreano, #356641
Applicant,

2014-CP-23-4668

v.

State of South Carolina,
Respondent.

ORDER OF DISMISSAL

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SC Court of Appeals

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This matter comes before the Court by way of an application for post-conviction relief filed on August 22, 2014 by Alexander Maldonado Coreano (Applicant). Respondent made its Return on or about January 8, 2015. An evidentiary hearing into the matter was convened on December 15, 2017, at the Greenville County Courthouse in Greenville, South Carolina. Applicant was present and represented by Richard H. Warder, 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 Matthew P. Pinckney, Esquire also testified. Additionally, Martin Pollack was sworn in as an interpreter for Applicant. 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 the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand

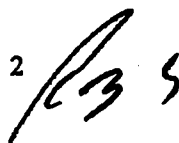
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Jury indicted the Applicant at the November 2011 term of General Sessions for possession of cocaine (2011-GS-23-2474), trafficking cocaine (2011-GS-23-5010, count 1), and possession of a weapon during commission of a violent crime (2011-GS-23-5010, count 2). Matthew Pinckney, Esquire represented the Applicant. On August 14, 2013, the Applicant pled guilty pursuant to North Carolina v. Alford, 400 U.S. 25, 91 S. Ct. 160 (1970) before the Honorable J. Mark Hayes, II. Judge Hayes sentenced Applicant to concurrent terms of three years for possession of cocaine, twelve years for trafficking cocaine (28-100 grams), and five years for possession of a weapon during commission of a violent crime. Applicant did not appeal his sentences or convictions.

FACTUAL HISTORY

On August 31, 2010, Applicant was pulled over in Greenville County for a traffic violation. He consented to a search and found in his left pocket was 6.18 grams of marijuana. Applicant was arrested and his vehicle was searched incident to his arrest where police found three baggies of cocaine. During this stop Applicant gave a false name. (GP Tran. pg. 7-8). On April 29, 2011, Greenville County Sheriff's Department and SLED executed a search warrant on Applicant's residence. Applicant was asleep on a bed in the master bedroom when police entered. The officers executed the search warrant and in the room Applicant was in was a 25-caliber handgun on the counter of the bedroom. Police also found in the master bedroom 20 plastic baggies with residue which field tested positive as cocaine. There were three plastic baggies which also contained cocaine weighing 1.29 grams. Additionally, police found beneath the bed that Applicant was asleep in a red cooler that contained what was analyzed as 228.06 grams of cocaine. There were latent prints lifted from these packages of cocaine, which did come back as matched to Applicant. (GP Tran. pg. 7-8).

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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. "[F]ailed to properly investigate the facts surrounding the circumstances that lead to [the Applicant's] arrest."
2. "Coerced into plea of guilty."
 - a. Counsel failed to assist the Applicant in deciding whether or not to plead guilty.
 - b. Counsel did not familiarize himself with the facts of the case.
 - c. Counsel did not "impart to the Applicant an understanding of the law on the relation of the facts."
 - d. Counsel gave "erroneous advice to the Applicant as to the length of the sentence he would receive by entering his plea."
 - e. Counsel gave advice to the Applicant "to the effect that no defense was possible to his charge."
 - f. Counsel "coerced the Applicant into entering his plea by making threats as to length of sentence he would receive by not pleading guilty."
3. "Counsel failed to advise his client as to his right to appeal."
4. "Community Service Program (CSP) Unlawfully Applied to Sentence."

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTARY HEARING

Applicant's Testimony

Applicant testified he was originally represented by his current PCR counsel but he ended up hiring Plea Counsel.¹ He testified he ended up pleading guilty on Plea Counsel's advice. He testified he believed the investigation into his case was insufficient. Applicant testified after he was arrested he contacted Richard Warder, Esquire. He testified Mr. Warder presented him with a plea offer of seven years and he signed the offer. Applicant testified immediately thereafter he talked to his family which changed his mind and he decided to fire Mr. Warder. Applicant testified after he fired Mr. Warder, Plea Counsel was retained to represent him but that he did not see Plea Counsel for two years. He testified Plea Counsel was in the military and deployed at that

¹ At his PCR hearing Applicant testified he had no objection to his current PCR counsel representing him on his PCR notwithstanding the fact his current PCR counsel represented him at one point on the charges he ultimately pled guilty to.

time. Applicant testified when Plea Counsel returned he only discussed his case with him a few times. Applicant testified Plea Counsel told him he now had a twelve year plea offer from the State.

On cross-examination, Applicant testified he rejected the initial plea deal that was presented to him by his previous attorney.

Plea Counsel's Testimony

Plea Counsel testified he had been practicing law since 2008 and part of his practice was devoted to criminal law. Plea Counsel testified Applicant's case was a drug case where Applicant was pulled over by police and drugs were found in the vehicle. Plea Counsel also testified Applicant's home was also searched by the police based on a search warrant they had and drugs were also found in his home. Plea Counsel testified once he was hired he filed a notice of appearance and motion for discovery. He testified he was hired in December of 2011 and that he deployed to Afghanistan in March of 2012. Plea Counsel testified he went over the discovery in Applicant's case with him and met with him numerous times. He testified he went over Applicant's constitutional rights with him and the charges he was facing along with the sentences he was facing and that he also spoke Spanish. He testified he spoke to Applicant's previous attorney after being hired and had several conversations with the Solicitor on Applicant's case as well.

On cross-examination Plea Counsel testified he did not go listen to tape recordings the State had of drug transactions involving Applicant and a confidential informant because the State told him the tape had been destroyed. However, Plea Counsel testified the confidential informant was available to testify. Plea Counsel testified he filed a motion to suppress the search warrant.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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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).

In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Lockhart, 474 U.S. at 56. Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, an

applicant's right to contest the validity of such a plea is usually foreclosed. Dalton, at 137-38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). "In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing." Id. at 138-39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Ineffective Assistance of Counsel/Involuntary Guilty Plea

Regarding Applicant's claim his guilty plea was induced by ineffective assistance of counsel, this Court finds Applicant has failed to meet his burden of proof. This Court finds Counsel provided effective assistance in this case. Counsel is a trial practitioner who had experience in the trial of criminal offenses. Counsel conferred with Applicant on multiple occasions, during which Counsel discussed the pending charges, the State's evidence, possible defenses and courses of action, and answered all of Applicant's questions.

This Court further finds the record reflects Applicant's plea was entered freely, voluntarily, knowingly, and intelligently. The plea judge explained the charges to Applicant, including the maximum penalties for each. The plea judge also went through Applicant's constitutional rights and questioned Applicant as to whether he understood those rights and wished to give them up to plead guilty. Applicant agreed that he did. Applicant admitted he was guilty of these offenses told the plea judge that he was satisfied with his attorney. Applicant

further told the plea judge no one had threatened him or made him any promises to get him to plead guilty, and he was doing so of his own accord. Additionally, Applicant told the plea judge he did not have any physical or mental issues which would prevent him from understanding the proceeding, and Applicant indicated he understood all of the plea judge's questions and had answered them honestly. This Court therefore finds that Applicant understood the terms of the plea and the possible sentences he could receive.

Therefore, this Court finds Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present compelling evidence that Counsel committed either errors or omissions in his representation of Applicant. This Court also finds Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court also finds that the record fully supports the knowing and voluntary nature of Applicant's guilty plea. See Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (holding defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both."). In addition, Applicant has presented no evidence or valid reasons why he should be allowed to depart from the truth of his statements made at the plea. See Dalton, 376 S.C. at 137, 654 S.E.2d at 874 ("[Admissions] made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements."). This Court concludes Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. The allegation is denied and dismissed.

Failure to File Notice of Appeal

Applicant alleges plea counsel was ineffective for failing to file a notice of appeal after his guilty plea. Though counsel is required to make certain that a defendant is made fully aware of his or her right to appeal after a *trial*, a different standard applies to a guilty plea:

Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Turner v. State, 380 S.C. 223, 224-25, 670 S.E.2d 373, 374 (2008) (citations omitted).

This Court finds no deficiency on the part of plea counsel or prejudice therefrom. The Court relies upon the credibility findings already set forth above, and finds Applicant never asked for an appeal and no other reason existed for plea counsel to believe Applicant wanted or would want an appeal. Accordingly, Applicant's request for relief by way of this allegation is denied and dismissed.

Community Service Program

Applicant alleges a community service program was unlawfully applied to his sentence. PCR relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Claims that affect only the duration of the sentence or quality of the inmate's confinement do not affect the validity of the conviction or sentence and therefore are considered *non-collateral* attacks on the conviction. Cooper v. State, 338 S.C. 202, 525 S.E.2d 886 (2000). A credit-related claim or challenge to other conditions of confinement does not fall into that category. *Id.* In Cooper the petitioner made a similar claim as Applicant here, that he was not given correct credit for the time served before his conviction. The South Carolina Supreme Court in Cooper stated that PCR was improper for the petitioner because by challenging the duration of the sentence, the petitioner was trying to enforce his sentence under law and therefore *not* challenging the validity of the

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underlying conviction or sentence. Id. A claim for time served is a *non-collateral* attack of a conviction and must be pursued through the Administrative Procedures Act (APA). Accordingly, Applicant's request for relief by way of this allegation is denied and dismissed.

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. Refer 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 21st day of March, 2018.



ROBIN B. STILWELL
Presiding Judge
Thirteenth Judicial Circuit

Greenville, South Carolina

MAR 30 2018

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF COCAINE

At a Court of General Sessions, convened on
County present upon their oath:

NOV 22 2011

the Grand Jurors of Greenville

That ALEXANDER MALDONADO COREANO did in Greenville County, on or about the 31st day of August 2010, willfully and unlawfully have in his possession and under his control a quantity of Cocaine. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

 A/K/A Josue Sanchez Moreno

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



SOLICITOR

WITNESSES

Patrick Donahue

Greenville County Sheriffs Office

8/31/2010

ARREST WARRANT NUMBER
1482502

ACTION OF GRAND JURY

TRUE BILL

Bobby Damm

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011-GS-23-
LCD

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November

TERM 2011

✓ 8-14-13

THE STATE

vs.

ALEXANDER MALDONADO COREANO

Alkh
Josue Sanchez Moreno

Indictment for

✓ 3011

POSSESSION OF COCAINE

VIOLATION § 44-53-0370

RECEIVED

APR 14 2011

Clerk of Court
Greenville County

002474

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)

INDICTMENT FOR
 TRAFFICKING COCAINE and POSSESSION OF A WEAPON
 DURING THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **NOV 22 2011** the Grand Jurors of Greenville
 County present upon their oath:

COUNT I

That ALEXANDER MALDONADO COREANO did in Greenville County, on or about the 29th day of April 2011, knowingly sell, manufacture, deliver or bring into the State of South Carolina, or did knowingly provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of more than 200 grams of Cocaine. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

COUNT II

That ALEXANDER MALDONADO COREANO did in Greenville County, on or about the 29th day of April 2011, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: TRAFFICKING COCAINE. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

ATK Josue Sanchez Moreno

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

Wade D. [Signature]

SOLICITOR

WITNESSES

Chris Marchi

Greenville County Sheriffs Office

4/29/2011

ARREST WARRANT NUMBER

COUNT I - 1433164 COUNT II - 1433165

ACTION OF GRAND JURY

TRUE BILL

Only Daum

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-23- 005010

WLA

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

November

TERM 2011

8-14-13

THE STATE

vs.

ALEXANDER MALDONADO COREANO

AKA Josue Sanchez Moreno

2359

Indictment for

0288 and 0549

**TRAFFICKING COCAINE and POSSESSION OF
A WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME**

VIOLATION § 44-53-0370 and § 16-23-0490

RECEIVED

JUL - 1 2011

Clerk of Court
Greenville County