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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Jean H. Toal, Circuit Court Judge

TIMOTHY L. TOWNSEND,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-000956

APPENDIX

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STATE OF SOUTH CAROLINA)	COURT OF GENERAL SESSIONS
)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	
)	
State of South Carolina,)	CASE NO. 2014-GS-10-2880
)	2014-GS-10-2882
)	
)	TRANSCRIPT OF RECORD
)	
VS.)	
)	
Timothy L. Townsend,)	
)	
DEFENDANT.)	
)	

February 12, 2015
Charleston, South Carolina

B E F O R E:

The Honorable Roger M. Young, Sr.

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

Scarlett A. Wilson, Esquire
For the State

Jason Thomas King, Esquire
For the Defense

I N D E X

GUILTY PLEA -- 3

EXHIBITS - None proffered

CERTIFICATION OF TRANSCRIPT -- 17

Look for an original signature in blue ink on the certification sheet to verify that the court reporter has certified the transcript you are viewing.

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

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

1 THE COURT: Are you Timothy Lamar Townsend?

2 MR. TOWNSEND: Yes, sir.

3 THE COURT: Mr. Townsend, you are here today on two
4 indictments. 2014-GS-10-2880 charges you with strong arm
5 robbery. You can get up to 15 years in jail for that. I am
6 told you want to plead guilty. Is that right?

7 MR. TOWNSEND: Yes, Your Honor.

8 THE COURT: Then Indictment 2014-GS-10-2882 is for
9 assault and battery of a high and aggravated nature. You
10 can get up to 20 years for that. I am told you want to
11 plead guilty; is that correct?

12 MR. TOWNSEND: Yes, Your Honor.

13 THE COURT: All right. On both of these you have the
14 right to a jury trial. You give up your right to a jury
15 trial when you plead guilty. If you want a trial, stop me
16 and we will arrange that for you. The State then has to
17 present enough evidence to convince 12 jurors you are guilty
18 beyond a reasonable doubt. All 12 have to agree you are
19 guilty in order to convict you, and if convicted you have
20 the right to appeal. You can challenge the States evidence,
21 put up evidence of your own, testify if you want. And if
22 you don't want to testify the judge will tell the jury not
23 to hold that against you while they are deliberating.

24 Do you understand all those right?

25 MR. TOWNSEND: Yes, sir.

1 THE COURT: Do you want to give those rights up and
2 plead guilty?

3 MR. TOWNSEND: Yes, sir.

4 THE COURT: Are you pleading guilty to these two
5 charges because you are guilty of them?

6 MR. TOWNSEND: Yes, sir.

7 THE COURT: Are you under the influence of drugs or
8 alcohol today?

9 MR. TOWNSEND: No, sir.

10 THE COURT: Do you need more time with your lawyer?

11 MR. TOWNSEND: No, sir.

12 THE COURT: Are you satisfied with his representation?

13 MR. TOWNSEND: Yes, sir.

14 THE COURT: Did anyone promise you anything or threaten
15 you to get you to plead guilty?

16 MR. TOWNSEND: No, sir.

17 THE COURT: How old are you?

18 MR. TOWNSEND: Fifty-two.

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

20 MR. TOWNSEND: Tenth grade.

21 THE COURT: Did you work before you got arrested?

22 MR. TOWNSEND: Yes, sir.

23 THE COURT: What did you do?

24 MR. TOWNSEND: Mainly restaurant equipment.

25 THE COURT: Say again.

1 MR. TOWNSEND: Mainly restaurant equipment. Berlin's
2 Restaurant Supply.

3 MR. KING: Berlin's Restaurant Supply, Your Honor.

4 THE COURT: Okay.

5 Are you married?

6 MR. TOWNSEND: No, sir.

7 THE COURT: Do you have children?

8 MR. TOWNSEND: No, sir.

9 THE COURT: Does he understand what he is doing?

10 MR. KING: Yes, Your Honor.

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

13 MS. WILSON: Thank you, Your Honor. This occurred on
14 February 18th of last year in downtown Charleston. The
15 victim who is present here today, Dr. Christian, and two of
16 her nieces and her friend, were walking from a restaurant to
17 a garage on [REDACTED] [REDACTED]

18 As they walked through the garage Dr. Christian was
19 basically bull rushed by the defendant and knocked to the
20 ground violently. Her purse was taken away, and the
21 defendant ran from the scene. He left a trail, fortunately,
22 and some good Samaritans who were riding bikes nearby saw
23 him running from the garage, followed him on the bikes. The
24 police were called and eventually picked him up several
25 blocks away.

1 Again, the bicyclist had followed for a while. They
2 lost him for a little while in a construction zone I think
3 over near the Gaillard where some more of Dr. Christian's
4 things were dropped.

5 When he was found by the officers - and one of
6 detectors who was involved in the case is present here
7 today - he was sweaty, out of breath, made up some story
8 about where he had been. He was identified by one of the
9 witnesses as being the person who did the robbery.

10 I handed up a picture to you where you can see the
11 injuries to Dr. Christian and also see there is one that
12 shows the blood from where she was lying on the pavement and
13 a hat nearby. That hat was sent to SLED for DNA testing,
14 and the defendant's DNA was recovered from inside of that
15 hat.

16 So the identifications that were made through the
17 show-up ID coupled with the DNA and the good Samaritans who
18 followed the defendant on this path told us that we had the
19 right guy.

20 He was originally charged with strong arm robbery and
21 A&B first. After meeting with Dr. Christian I believed and
22 my investigator believed that we had enough to upgrade the
23 charge to ABHAN which is a violent offense. And based on
24 his record I think he needs a violent offense.

25 She can talk to you more about her injuries. But

1 because she has limited mobility now of her arm - she had
2 damage to her shoulder that required surgery; she had facial
3 fractures that were pretty significant - we think the ABHAN
4 charge is appropriate.

5 All of this happened, again, here in Charleston County.
6 And I believe the doctor would like to address the court
7 when it is time.

8 THE COURT: Yes. Could you just state your name for
9 the record.

10 MS. CHRISTIAN: My name is Elizabeth Christian. I am
11 the victim. On the night of February the 18th of last year
12 as I was walking to the car after, as Ms. Wilson mentioned,
13 after being in a restaurant on King Street in the parking
14 lot between George and Society streets as I was walking to
15 the car my purse was taken and I was pushed to the ground.

16 The injuries -- I sustained injuries and having a large
17 hematoma of my left eye with retinal damage. I had a large
18 laceration just lateral to my left eye, multiple fractures
19 of several bones in my face, and multiple fractures of my
20 left shoulder.

21 These injuries required a total left shoulder
22 replacement. I was admitted to the hospital a week after
23 that and had plates in my face from the facial fractures
24 holding the bones together. I lost four units of blood
25 that night. I was out of work for three weeks and tried to

1 work part-time for two-and-a-half weeks after that.

2 These injuries have caused me to change many aspects of
3 my personal and professional life. I due to the injuries
4 and nerve damage to my left shoulder I am unable to raise my
5 arm, as you can see. I am -- it caused difficulty in my
6 getting dressed. I am unable to open a car door. I cannot
7 get a dish out of the cabinet. I am a physician and have
8 had to adjust the way that I examine patients.

9 I received physical therapy for four months after my
10 surgery and have now started it again for my position due to
11 the fact that I have such poor use of my left arm. These
12 activities take much time out of my personal and my
13 professional life.

14 And I do agree with the charge, maximum charge, that is
15 given to this gentleman.

16 THE COURT: Thank you.

17 MS. WILSON: Your Honor, if you would like me to
18 address sentencing now I can.

19 THE COURT: Sure.

20 MS. WILSON: As I showed you in the chart, this
21 defendant has a history of strong arm robbery starting from
22 back in the 80's.

23 And if you will look, I think it is very telling who
24 he targets. He targets women. And specifically over the
25 last few, a 66-year-old, a 50-year-old, a 54-year-old, a

1 60-year-old. He is not picking young strapping men to pick
2 a fight with or to rob. He is picking people that he
3 perceives as vulnerable. And he has preyed on this
4 community for far too long.

5 He has been given prison sentences. He had been given
6 at one time a YOA sentence. It didn't work.

7 Based on his record, based on the seriousness of this
8 case, it is our position that he needs to be incarcerated
9 for as long as possible.

10 We certainly recognize and I don't back away from my
11 position in this case or any case that defendants who take
12 responsibility and save the State and the victims from the
13 uncertainty of trials should be given some benefit.

14 Frankly, Your Honor, I think if this case went to trial and
15 a judge heard all that there is to hear about this case it
16 would be a consecutive sentence case. So anything less than
17 consecutive sentences for the max is giving him some sort of
18 benefit for his acceptance of responsibility for the State
19 not having to go through the appellate process, and we
20 understand that. But we definitely think a 20-year sentence
21 would be appropriate.

22 You know, this is one of those cases that is just hard
23 to explain to the public how somebody like this can do these
24 things over and over and over again, and we would ask that
25 it stop for as long as possible.

1 THE COURT: All right. I did not go over that the
2 ABHAN charge is a strike offense with the defendant.

3 Did your lawyer talk with you about strike offenses?

4 MR. TOWNSEND: Yes, sir.

5 THE COURT: Okay. I don't know -- I guess he did --
6 does -- he didn't have any prior strikes? I am just looking
7 at ---

8 MS. WILSON: No, sir.

9 THE COURT: Okay. Well, in South Carolina we have what
10 we call strike offenses. Use baseball as an example; you've
11 got three strikes and you're out. Out in this world means
12 you go to jail for the rest of your life without the
13 possibility of ever getting out.

14 South Carolina we have two-strike offenses and
15 three-strike offenses. The charge that you are pleading
16 guilty to today of assault and battery of a high and
17 aggravated nature is of the two-strike type. So after today
18 you will have one strike against you and if you ever get
19 convicted of another strike offense you will go to jail for
20 the rest of your life without the possibility of parole. Do
21 you understand that?

22 MR. TOWNSEND: Yes, sir.

23 THE COURT: All right. Do you still want to plead
24 guilty today?

25 MR. TOWNSEND: Yes, sir.

1 THE COURT: Okay.

2 THE COURT: Mr. King, what would you like to say?

3 MR. KING: Thank you, Your Honor. I had Mr. Townsend
4 evaluated by MUSC for competency. Came back that he was
5 competent, and I have no question about that. But I did,
6 you know, learn some things. One thing I like about those
7 reports is you can learn some background about people and it
8 is -- it can be a source of mitigation.

9 So I think the course of Mr. Townsend's life has gone
10 differently than most of us. He revealed -- and he had
11 never told this to me, but he revealed this to the doctor
12 there, that he had been sexually abused by his father from
13 the age of about age eight up until high school. The doctor
14 noted that was the only time he became visibly upset during
15 the interview and he didn't really want to talk about it
16 and, you know, she believed that that, you know, that that
17 happened to him.

18 She diagnosed him with post-traumatic stress disorder.
19 And that was the final Axis I diagnosis based on that
20 experience and, you know, what he described, the
21 consequences and the nightmares that he has because of that.
22 So he grew up -- he also he mentioned physical abuse as well
23 that he suffered. So he had a rough childhood. He ends up
24 getting involved with drugs and crime at a fairly early age.
25 Addiction has played a big role in this. I think

1 probably one of the major roles. He doesn't really have
2 much family now. He had the one friend, Perry Milligan,
3 that would come to court for him. And he didn't show up
4 today. I think that they -- their relationship is not
5 working out while he has been in jail, so he has really lost
6 the one person that he had who has giving any kind of
7 support to him.

8 Your Honor, I just can't help wonder how different his
9 life might have been in that he had had different
10 experiences and more positive childhood and what direction
11 his life might have gone.

12 He has HIV. He has had that he says for about eight or
13 ten years. And that is in the evaluation too. He takes
14 medication for that. He is 52 now. So I mean I don't
15 know -- you know, his life expectancy might be limited. I
16 don't know how long he might live. So we are asking that
17 you take that into consideration, you know, and how, you
18 know, will he survive a lengthy prison sentence.

19 Understand he is going to get a prison sentence, but we
20 are asking Your Honor to show some leniency in this case.
21 The addiction was alcohol at age 17, cocaine at 21, and then
22 at 49 heroin. I asked him what -- be starting a new drug
23 addiction; and he said, you know, he was -- he was losing
24 the high off of the cocaine. So he is chasing this high and
25 starts using heroin.

1 His friend Perry Milligan filed a petition with the
2 probate court. And this I think was after he was arrested.
3 But he was aware of this terrible drug problem he was going
4 through at the time. And there was a probate order
5 committing him to Morris Village. You know, with him being
6 in jail he would have had to have made bond and get out to
7 actually go do that. But, you know, the one friend that he
8 had that was concerned enough to file this petition because
9 of a terrible drug problem that he noticed and Mr. Townsend
10 that ended up leading up to this arrest.

11 You know, that day he is out on the street. He's --
12 I'm assuming he is either high or trying to get high. You
13 know, his goal is to get the purse and get away.

14 There may be a fine distinction, Judge; but I think
15 there is some distinction between intended consequences
16 and unintended consequences. And they may have been
17 foreseeable; but I think it is a different situation where
18 someone goes out with a knife or a gun and, you know, really
19 just beats someone.

20 This was knocking her down, grabbing the purse. And
21 from listening to the statements it sounded like the strap
22 of the purse may have -- she either may have held on or it
23 got caught on her arm and pulled her down too as the purse
24 is being pulled away. But the intent is to get the purse
25 and get away as quickly as possible.

1 Terrible what happened that day. But I don't believe
2 he intended those kind of injuries to happen. No weapons
3 involved or anything like that. I ask you to take that into
4 consideration.

5 It is a bad strong arm robbery, and he has a history of
6 that. It is really that assault and battery of a high and
7 aggravated nature which really hurt him. That is the one
8 that is 85 percent that he will have to serve a lot more
9 time on.

10 So I'm asking if you will consider those a little
11 differently; that, you know, it was a bad strong arm robbery
12 but as far as an assault and battery of a high and
13 aggravated nature you think of the spectrum of that, you
14 know, knocking someone down, you know, where does that fit
15 on the spectrum of, you know, pleas we could be hearing for
16 stabbings and shootings, beatings with bats, weapons and
17 things like that.

18 And I am sure for the victim, you know, it may not make
19 a big difference; her injuries were still bad. But I ask
20 you to consider that difference between the intended
21 consequences someone might have in a crime and unintended
22 consequences. And I think that this was -- the severe
23 injuries she suffered were not intended by Mr. Townsend.

24 Ms. Wilson mentioned this, the guilty plea. It is
25 always tough for Mr. Townsend; you know, he comes up here

1 and pleads guilty, he gives up his right to a trial. He
2 knows he is looking at serious time. But we would ask not
3 to -- you know, not to give him in that high range on the
4 assault and battery of a high and aggravated nature because
5 he is coming in here and pleading guilty. He is saving them
6 the trouble of going to trial and that he would get some
7 benefit from that.

8 Police originally charges an assault and battery first
9 degree. It was upgraded, but I think -- I don't know, I
10 think there could even be a jury issue on that. But, you
11 know, to go to trial won't argue that. You know, we could
12 lose -- or we could win and get assault and battery first
13 and he could still get consecutive time and get, you know, a
14 very high sentence. So he has decided to step up and take
15 responsibility and plead guilty.

16 And we are just asking you if you, understanding he has
17 a bad record and these are bad injuries, to put it in
18 perspective and take his, you know, his life expectancy, you
19 know, how long he might survive and when you are fashioning
20 the sentence and ask for some leniency.

21 THE COURT: All right, Mr. Townsend, would you like to
22 say anything?

23 MR. TOWNSEND: Yes, Your Honor, I would like to
24 apologize, Your Honor, to the family members that I hurt and
25 the woman that I hurt. I meant no harm. And all I can do

1 is say I take responsibility for my action. I, you know, I
2 was wrong; and I apologize, you know.

3 THE COURT: All right. Well, there's no question that
4 based on your record that if you were to have gone to trial
5 and gotten convicted you probably certainly if I was the
6 judge gotten consecutive sentences. You know, with your
7 record you are a menace to society. And I don't think you
8 are going to change.

9 You are to be commended for coming in and pleading
10 guilty for this offense. It relieves the State of the
11 burden of having to prove the trial, put the victim through
12 the trauma of a trial, the uncertainty of, you know, what
13 the jury might do. But the break that you get is not
14 getting consecutive sentences.

15 I am going to give you 20 years on the assault and
16 battery of a high and aggravated nature, 15 on the strong
17 arm. They will run concurrent. You will get credit for any
18 time that you have already served. Good luck to you.


19 (Whereupon the hearing concluded.)

(NOTE: A transcript which has been certified by the court reporter will bear an original signature on the below certification sheet. Please contact the court reporter for additional certified transcripts.)

CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the captioned case, relative to appeal, in the Court for Charleston County, South Carolina, on February 12, 2015.

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



PHYLLIS NORTON, CVR
(Signature in blue ink.)

Date: July 23, 2015

Certified Transcript Provided For: Wilson
Certification Reference # 072315 ORIGINAL

FORM 5

2015-CP-10-3790

STATE OF SOUTH CAROLINA)

County of CHARLESTON)

289418

TIMOTHY L. TOWNSEND)

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

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

2015 JUL -7 PM 3:36
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention LEE COUNTY CORR. INST.
2. Name and location of Court which imposed sentence CHARLESTON
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 14-GS-100 2882

(b) 14-ES-100 2880
(c) _____

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

(a) FEBRUARY 13, 2015 10 YEARS
(b) FEBRUARY 13, 2015 10 YEARS
(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____
(b) after a plea of not guilty _____
(c) after a plea of nolo contendere _____

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

_____ NO _____

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

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

i. _____
ii. _____
iii. N/A

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

i. _____
ii. N/A
iii. _____

(c) the date of each such result:

i. _____
ii. N/A
iii. _____

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

i. _____
ii. N/A
iii. _____

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

(a) N/A

- (b) _____
 - (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) VIOLATION OF 6th AMENDMENT, INEFFECTIVE ASSISTANCE
 - (b) _____
 - (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) COUNSEL FAIL TO ARGUE THE ENHANCEMENT OF MY INDICTMENT.
 - (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. N/A
 - iii. _____
 - iv. _____
 - (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. N/A
 - iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. N/A

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. N/A

iii. _____

iv. _____

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

i. _____

ii. N/A

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. N/A

iii. _____

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

i. _____

ii. N/A

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) _____
- (b) _____
- (c) _____

N/A

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

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

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

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

i. JASON T. KING, 100 BROAD ST CHARLESTON S.C. 29403

- ii. _____
- iii. _____

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

i. PLEA AND SENTENCING

- ii. _____
- iii. _____

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

SENTENCING REDUCE

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

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)
County of Charleston)

VERIFICATION

I, Timothy Townsend, 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.

Timothy Townsend

SWORN to and subscribed before me this 30
day of June 2015.

Debra Sines (L.S.)
Notary Public

My Commission Expires: 11-4-2015

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

I, Timothy Townsend, 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.

Timothy Townsend
Applicant

SWORN or affirmed to and subscribed before me this

30 day of June 2015.

Debra Jones
Notary Public

My Commission Expires: 11-4-2015

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)
)
)
)
 Timothy L. Townsend, #289418,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT

2015-CP-10-3790

RETURN

Respondent, making its Return to the application for post-conviction relief (PCR) filed July 7, 2015, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the May 2014 term of the Charleston County Grand Jury for two (2) counts of strong arm robbery (2014-GS-10-2880, 2882). The Applicant was represented by Jason T. King, Esquire. On February 12, 2015, the Applicant pled guilty as indicted. The Honorable Roger M. Young, Sr. sentenced Applicant to incarceration for twenty (20) years for the first offense, fifteen (15) years, concurrent, for the second offense. The Applicant did not appeal his conviction and sentence.

Attached herewith and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject conviction(s), Applicant's records from the South Carolina Department of Corrections, the application, and the guilty plea transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. "Violation of 6th Amendment, Ineffective Assistance"
 - a. "Counsel fail(sic) to argue the enhancement of my indictment."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCP.

III.

Applicant's first allegation is an allegation of ineffective assistance of counsel. In a post-conviction relief action, Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, 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, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced 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, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held on Applicant's allegations.

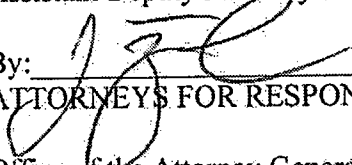
Respectfully submitted,

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Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

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Assistant Deputy Attorney General

By: 
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January 26, 2016.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 TIMOTHY L. TOWNSEND, #289418)
)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

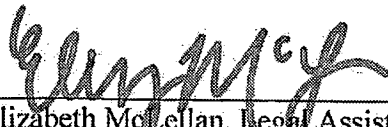
2015-CP-10-3790

AFFIDAVIT OF SERVICE BY MAIL

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

Christopher L. Murphy, Esq.
Murphy Law Offices, LLC
PO Box 2008
Mt. Pleasant, SC 29465

DATED this 26th day of January, 2016.


 Elizabeth McLellan, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	2015-CP-10-3790

TIMOTHY LAMAR TOWNSEND,)
Applicant,)
-vs-)
STATE OF SOUTH CAROLINA,)
Respondent.)

TRANSCRIPT OF RECORD
September 12, 2016
Charleston, South Carolina

B E F O R E:

The Honorable Jean H. Toal, Judge.

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

Christopher Murphy, Esquire
Attorney for the Applicant

James Rutledge Johnson, Esquire
Attorney for the Respondent

Amanda K. Haffenden, RPR, CRR
Circuit Court Reporter

E X A M I N A T I O N S

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Timothy Townsend	5 26	11 27	-- --	-- --
Jason King	14	18	24	--

E X H I B I T S

<u>APPLICANT'S</u>	<u>DESCRIPTION</u>	<u>MARKED</u>	<u>ADMITTED</u>
1	Three-page Document	6	6

1 (September 12, 2016.)

2 THE COURT: The next case is Timothy L.
3 Townsend, 2015 of 3790. Mr. Townsend is present in the
4 courtroom. He is represented by attorney Christopher
5 Murphy. You may be seated, Mr. Townsend. Mr. Rutledge
6 Johnson is present in the courtroom representing the
7 State.

8 Mr. Johnson, you may proceed.

9 MR. JOHNSON: May it please the Court, Your
10 Honor: Mr. Townsend was indicted at the May 2014 term of
11 the Charleston County grand jury for one count of assault
12 and battery of a high and aggravated nature and one count
13 of strong-arm robbery. He was represented by Jason King,
14 Esquire. On February 12, 2015, he pled guilty as
15 indicted. Honorable Roger M. Young sentenced him to
16 incarceration for 20 years for the assault and battery of
17 a high and aggravated nature and 15 for the strong-arm
18 robbery.

19 He did not appeal this conviction at
20 sentence; however, he filed a timely PCR application
21 dated July 7, 2015. State filed its return on January
22 26, 2016, and he is represented by Mr. Christopher
23 Murphy.

24 THE COURT: Mr. Murphy?

25 MR. MURPHY: Yes. Thank you, Your Honor. We

1 would call Mr. Townsend as our first witness.

2 THE COURT: Come around, Mr. Townsend. If
3 you would go there to the corner, they'll swear you in.

4 TIMOTHY TOWNSEND,

5 having been first duly sworn,
6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. MURPHY:

9 Q. And, Mr. Townsend, if you just try to speak up
10 because it's hard to hear you. You recall pleading
11 guilty to the charges for -- that are at issue today?

12 A. Yes, sir.

13 Q. And you were represented by Mr. King from the
14 Charleston PD's office?

15 A. Yes, sir.

16 Q. And you ended up pleading guilty before the
17 Honorable Roger Young?

18 A. Yes, sir.

19 Q. And you recall all that, correct?

20 A. Yes, sir.

21 Q. Now, you filed a PCR application which alleges
22 your attorney committed an error, correct?

23 A. Yes, sir.

24 Q. And you understand what that means, right?

25 A. Correct. Yes, sir.

1 Q. Can you tell the Court what errors you believe
2 your attorney committed.

3 A. Your Honor, I have a paper right here. When I
4 came and saw him, I felt that he did not show the judge,
5 the other Court, that would have helped me during my
6 parenting program and then on the ground that I felt like
7 he ain't represent me to the level he was supposed to
8 represent me to. I got a letter from probate saying I
9 was chemical dependent. I felt like if the Court had saw
10 this letter, I felt that he would have given me less time
11 than the 20 years I got.

12 THE COURT: All right, sir. Mr. Townsend,
13 you have a letter from your doctor indicating chemical
14 dependence, which was not presented on your behalf by
15 Mr. King at the time of your plea.

16 THE WITNESS: Yes.

17 THE COURT: Is that essentially what --

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Very good. Now, Mr. Murphy, do
20 you care to introduce that?

21 MR. MURPHY: I do, Your Honor, and I don't
22 believe Mr. Johnson has seen a copy of this letter.

23 THE COURT: Well, you take it and show it to
24 Mr. Johnson, and we'll see if we can get it introduced.

25 We have got a judgment and order ex parte

1 Terry Milligan, petitioner, in the matter of Timothy
2 Townsend, who is the applicant here. This is a document
3 dated the 2nd day of April 2014, and it's signed by
4 associate judge of probate, and it is a judgment that
5 Mr. Townsend should be involuntarily committed to Morris
6 Village for a period not to exceed 90 days and to
7 outpatient treatment in Charleston outpatient center for
8 a period not to exceed 12 months.

9 There's also a report of a designated
10 examiner for chemical dependency. That discusses Mr.
11 Townsend's open acknowledgement of alcohol and crack
12 cocaine dependency. It's a three-page document with the
13 judgment and order report of a designated examiner. I
14 think that the third page is simply a copy -- oh, I see.
15 The third page is the fact page, or the report for the
16 designated examiner, so, Madame Clerk, if you will mark
17 these as Mr. Townsend's Exhibit 1.

18 (Applicant Exhibit 1 was marked for
19 identification and admitted into evidence.)

20 MR. MURPHY: Thank you, Your Honor. May it
21 please the Court:

22 BY MR. MURPHY:

23 Q. Mr. Townsend, what you're telling the Court is
24 that you were addicted to drugs at the time you were
25 charged with these crimes, right?

1 A. Yes, sir.

2 Q. And you had a serious addiction, obviously,
3 correct?

4 A. Yes, sir.

5 Q. And did you discuss this drug addiction with your
6 attorney?

7 A. I told him about my drug addiction when I was in
8 the Charleston County Detention Center. I tell him that
9 I been in the program up there and DAODAS too.

10 Q. And when you pled guilty, how many times did you
11 meet with your attorney before you decided to plead
12 guilty?

13 A. Two, two times.

14 Q. And how long were those meetings?

15 A. One of them was about ten or fifteen minutes.

16 Q. And what was the other one? How long was the
17 other one?

18 A. One day I know he came in and he stopped by and
19 saw me, so I figure about -- like, I don't know exact
20 time. I'm going to say about ten, fifteen minutes.

21 Q. And did you meet with him? Where were these
22 meetings?

23 A. At the Charleston County Detention Center.

24 Q. And did you have the glass partition or the phone?

25 A. The glass.

1 Q. The glass partition? And did he go over the
2 elements of each crime against you?

3 A. He gone over with me -- he did go over with me
4 about -- when I first got charged, they didn't charge me
5 with assault. Strong-arm robbery. I never know my
6 charge got enhanced until I got ready when I came to
7 court, and then he told me that my charge was being
8 upgraded. I never saw no paper from the grand jury or
9 nothing like that.

10 Q. So you didn't know the charges were changed from
11 strong-arm robbery to assault and battery of a high and
12 aggravated nature?

13 A. Right, right.

14 Q. Now, when you talked, did you understand the
15 possible sentence you could get before you pled guilty?

16 A. Yes, sir.

17 Q. And you talked about -- you brought these papers
18 in about your drug addiction. Did you talk about
19 mitigation, or ways you could get less time? Did you
20 explain to the judge?

21 A. I brought the paper here, just to let them know.
22 I felt like I couldn't get a lesser sentence than getting
23 the 20 years that I got, you know.

24 Q. And what you're saying, were these papers
25 available at the time of your guilty plea?

1 A. Yes, sir.

2 Q. And do you recall whether or not your attorney
3 raised your drug addiction with the Court?

4 A. No. Raising my HIV status with the Court, telling
5 the Court, 20 years, how am I even supposed to get out of
6 the penitentiary? He mentioned that, you know.

7 Q. But he obviously didn't present these papers to
8 the Court at sentencing?

9 A. No.

10 Q. And did you talk to him about these papers
11 beforehand?

12 A. Yes, sir.

13 Q. And did you talk with him about the drug
14 addiction, how that might have given some sort of excuse
15 or mitigation for these crimes?

16 A. Yes, sir. As a matter of fact, I did send him a
17 copy of one of these letters. I did send him a copy of
18 one of the letters, you know?

19 Q. Okay. And after the plea, after you were
20 sentenced, did you have any discussions with him?

21 A. No.

22 Q. Did you talk about your wanting to appeal the
23 sentence at all?

24 A. No.

25 Q. Did you have -- did he write you a letter or

1 anything afterwards?

2 A. No.

3 Q. So after the sentence, that was it, in terms of
4 communication with your attorney?

5 A. Yeah.

6 MR. MURPHY: That's all I have, Your Honor.

7 THE COURT: Mr. Johnson?

8 MR. JOHNSON: May it please the Court, Your
9 Honor:

10 CROSS-EXAMINATION

11 BY MR. JOHNSON:

12 Q. Mr. Townsend, you say that counsel did not present
13 these letters to the Court, correct?

14 A. Right. Yes, sir.

15 Q. Are you aware -- have you seen your guilty plea
16 transcript?

17 A. No, sir.

18 MR. JOHNSON: Your Honor, may I approach?

19 THE COURT: You may.

20 MR. JOHNSON: Let the record reflect I'm
21 showing Mr. Townsend a copy of his guilty plea transcript
22 dated February 12, 2015.

23 BY MR. JOHNSON:

24 Q. And I refer you to page 13. Will you agree with
25 me, Mr. Townsend, that at the top of 13 he talks about

1 the probate order and you going to Morris Village for
2 your drug addiction?

3 A. 13 and 14, you say?

4 THE COURT: Mr. Townsend, can you read
5 that -- what's on there on page 13?

6 THE WITNESS: No, ma'am.

7 THE COURT: All right. Well, read it out to
8 him if you would, please, counsel.

9 MR. JOHNSON: Page 13, starting line 1: His
10 friend Terry Milligan filed a petition with the probate
11 Court -- and this is Jason King speaking in mitigation,
12 Your Honor, just to give context -- and this is, I think,
13 after he was arrested, but he was aware of this terrible
14 drug problem he was going through at the time, and there
15 was a probate order committing him to Morris Village.

16 You know, with him being in jail, he would
17 have had to make bond and get out to actually do that,
18 but, you know, the one friend he had was considerate
19 enough to file this petition because of the terrible drug
20 problem that he noted in Mr. Townsend that ended up
21 leading up to his arrest.

22 BY MR. JOHNSON:

23 Q. So would you agree with me that counsel did
24 present that to the Court?

25 A. If he did, I don't recall him presenting that to

1 the Court.

2 MR. JOHNSON: All right. If you will take
3 judicial notice that he did say that in mitigation.

4 THE COURT: I have the transcript here.

5 MR. JOHNSON: Yes, ma'am.

6 BY MR. JOHNSON:

7 Q. And you're saying that he only met with you two
8 times at the jail?

9 A. Two times.

10 Q. And that was only about ten to fifteen minutes
11 apiece?

12 A. Matter of fact, he came back when I finally got
13 ready to come to court, one more time before I get ready
14 to come to court.

15 Q. Okay. But you do admit you're guilty of these
16 crimes, right?

17 A. Yes, sir.

18 Q. And that you knocked Dr. Christian down and took
19 her purse?

20 A. Yes, sir.

21 Q. Your main gripe is you got too much of a sentence.

22 A. Yes, sir.

23 Q. And you feel like counsel should have done more to
24 get you a lesser sentence?

25 A. Yes, sir.

1 Q. And you pled guilty because you were guilty?

2 A. Yes, sir.

3 Q. And you apologized for your actions in this case,
4 correct?

5 A. Yes, sir.

6 MR. JOHNSON: Okay. No further questions,
7 Your Honor.

8 MR. MURPHY: Nothing further, Your Honor.

9 THE COURT: Mr. Townsend, I'm looking at the
10 transcript of your guilty plea, and I'm wondering if you
11 recall the argument being made that you have a past
12 history of strong-arm robbery going back to the 1980's.

13 Do you remember that being said in court?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Is that true?

16 THE WITNESS: Those charges you're talking
17 are 1980. I got charged with all those charges. They
18 happened in '80.

19 THE COURT: And since the 1980s, were there
20 other strong-arm robbery charges moving on up to the time
21 you were arrested for this one?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: What was mentioned in the hearing
24 was that your charges for strong-arm robbery were charges
25 that involved women over the ages of 66 years old, 50

1 years old, 54 years old, and another 60-year-old and then
2 this Dr. Christian; is that correct?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: All right. Anything further.

5 MR. MURPHY: Nothing, Your Honor.

6 MR. JOHNSON: Nothing further. I would call
7 Jason King.

8 THE COURT: All right. You may stand down,
9 Mr. Townsend.

10 JASON KING,
11 having been first duly sworn,
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. JOHNSON:

15 Q. Good morning, Mr. King. May it please the Court:
16 Please tell the Court how you got involved in this case.

17 A. I was appointed to represent Mr. Townsend on -- I
18 think, the file was open February 28, 2014 on the
19 charges, initially, of strong-arm robbery and assault and
20 battery first degree.

21 Q. And you work for the public defender?

22 A. Yes.

23 Q. And how long have you been employed by the public
24 defender's office?

25 A. Since 2005.

1 Q. And how long have you been practicing law?

2 A. Since 2000.

3 Q. How much of that is criminal?

4 A. Almost all of it except for a couple years.

5 Q. And have you had cases of strong-arm robbery and
6 assault and battery of a high and aggravated nature
7 before?

8 A. Yes.

9 Q. And you've gone through guilty pleas before?

10 A. Yes.

11 Q. Can you tell the Court how many of those guilty
12 pleas you've been a part of?

13 A. Hundreds. I don't even know if I could count it
14 up. Probably hundreds to maybe 1,000.

15 Q. And did you file Rule 5 discovery motions in this
16 case?

17 A. I did.

18 Q. And received that from the State?

19 A. Yes.

20 Q. And did you go over that with Mr. Townsend?

21 A. Yes.

22 Q. And did he seem to understand the documents?

23 A. He did.

24 Q. Did he understand the crimes themselves?

25 A. Yes.

1 Q. And the elements of those crimes?

2 A. Yes.

3 Q. And the sentencing that could come with those
4 crimes?

5 A. Yes, sir.

6 Q. Okay. Did he ever want a trial?

7 A. Initially he told me he was not guilty. Early on
8 in the case, as we got closer to the trial and the case
9 was actually docketed for trial, there was DNA that came
10 back on a hat that made the case a little bit stronger,
11 and I guess we had discussed a possible plea, but DNA on
12 the hat sealed that deal.

13 Q. And, roughly, how many times did you meet with
14 him?

15 A. We met with him -- let's see, seven times; maybe
16 six at the jail and one time at MUSC forensics for a
17 competency evaluation. I met with him there too.

18 Q. And he was found competent?

19 A. He was.

20 Q. At these meetings, were the crimes, the whole
21 situation, discussed?

22 A. Yes.

23 Q. And at what point did he want you to start
24 negotiating for a plea offer?

25 A. Well, as we were heading up to trial, without the

1 DNA, it was still not a bad case for the State, so I
2 advised if we could get an offer on the table. The State
3 never really made an offer, and then once the DNA came
4 back, they certainly didn't make an offer after the
5 DNA came back, and the case got stronger.

6 Q. And you relayed that information to Mr. Townsend
7 and he decided he wanted to plead guilty anyway?

8 A. Yes.

9 Q. Straight up?

10 A. Yes.

11 Q. Did you ever force, threaten or coerce him into
12 pleading guilty?

13 A. No.

14 Q. Did you have any conversation regarding Morris
15 Village treatment plan?

16 A. I did. I had that early on in the case.
17 Initially, I didn't make a big deal out of it because one
18 of the doctors that examined the reports, it's something
19 that could be construed as an admission of guilt in one
20 of the doctors' reports. It says that he was arrested
21 for strong-arm robbery and open container within the
22 year. Reports being under the influence both times.

23 It talks about how drugs were his downfall, plead
24 to criminal behavior, takes -- commits crimes, criminal
25 behavior to fund his drug habit. Initially, I was

1 worried that that would be construed as an admission of
2 guilt if he told the doctor, I was high when I committed
3 this robbery, so I didn't make a big deal, but at the
4 time, I brought it up to the judge, and that was part of
5 my mitigation that I argued, that he had a pretty bad
6 drug problem, and I did tell him there was an order
7 committing him to Morris Village.

8 Q. Did you have any indication he was on drugs on the
9 day he pled?

10 A. No.

11 Q. But he did eventually admit his guilt in this
12 case?

13 A. He did.

14 Q. Whose decision was it to plead in this case?

15 A. It was his ultimate decision.

16 MR. JOHNSON: No further questions, Your
17 Honor.

18 MR. MURPHY: Thank you, Your Honor. May it
19 please the Court:

20 CROSS-EXAMINATION

21 BY MR. MURPHY:

22 Q. Mr. King, you and I have been on the same side
23 before, haven't we?

24 A. Yes.

25 Q. And I don't assume -- if you did, you would be the

1 first -- do you keep actual hours or a time sheet for how
2 much time you spend on each case?

3 A. No, I do not.

4 Q. With those seven meetings that you had with
5 Mr. Townsend, do you recall how long they were?

6 A. Not specifically. Typically, I'm going to spend
7 at least 20 minutes. Regular meetings last at least 20
8 minutes, but approximately 30 minutes.

9 Q. But it sounds as you approached the plea date,
10 this really became a mitigation case rather than a guilt
11 or innocence case, right?

12 A. Right.

13 Q. And in terms of the sentence, did you go over the
14 sentencing options and what the Court could sentence Mr.
15 Townsend to?

16 A. I did.

17 Q. And did he understand that, in your opinion?

18 A. I believe he did.

19 Q. And when you -- prior to the sentence, did you
20 give -- did the State give any type of offer or any type
21 of negotiation in terms of what they would recommend or
22 anything like that?

23 A. No. This case was handled by Scarlett Wilson
24 herself, which is not typical, not handled by one of the
25 associates or assistant solicitors. She took the case

1 herself. It involved an elderly physician. The victim
2 was a physician. She took the case, and she took a
3 really hard stance with it. She was pushing hard to get
4 prison time.

5 Q. In your communications with Mr. Townsend, did you
6 relay any opinions or thoughts on what his sentence would
7 be?

8 A. I can't remember specifically. I wouldn't tell
9 him he would get a specific sentence, you know. I knew
10 he was going to get a significant prison sentence. The
11 hope was to -- and, unfortunately, in this case he got
12 the maximum. He got the maximum concurrent. The judge
13 said he was cutting him a break by not giving him
14 consecutive time, so I prepared him that he was going to
15 get prison time. I hoped he wouldn't get the maximum,
16 but I don't know if I ever discussed numbers or
17 specifics.

18 Q. When he ended up getting the maximum sentence, did
19 you talk to him after that sentence about his options?

20 A. I don't believe so. He was still within the
21 sentencing range. There was no reason I knew of, an
22 appellate issue or to withdraw the plea or anything like
23 that, and I don't think he indicated to me he needed to
24 talk to me.

25 Q. So one issue would be when you did the sentence,

1 you probably didn't feel there were any grounds for an
2 appeal, correct?

3 A. Right.

4 Q. And, thus, you would not have filed an appeal?

5 A. Right.

6 Q. Is it your standard of practice, when somebody
7 gets a maximum sentence, to file an appeal automatically
8 or not?

9 A. No.

10 MR. JOHNSON: Objection. This is not an
11 application anything about a belated appeal, so can ask
12 that you strike this from the record.

13 THE COURT: Overruled.

14 BY MR. MURPHY:

15 Q. Well, let's move on to the next record. He got
16 the maximum sentence. Did you discuss a motion to
17 reconsider with him?

18 A. No.

19 Q. Is there a reason why you wouldn't have filed a
20 motion to reconsider in these circumstances?

21 A. No grounds I was aware of, nothing new to present
22 to the judge that I wouldn't have already presented at
23 the initial sentencing.

24 Q. And you were aware of his drug addiction, correct?

25 A. Yes.

1 Q. And do you know of anything else you could have
2 presented to the Court that would have further elaborated
3 on his drug condition?

4 A. I don't know if I actually handed up the actual
5 order, the order of the probate Court to the judge, but I
6 addressed it, mentioned it, and the judges
7 would typically -- if the judge wanted to see it, they
8 would normally ask me about it.

9 MR. MURPHY: One moment, Your Honor.

10 No more questions, Your Honor.

11 THE COURT: All right. Mr. King?

12 THE WITNESS: Yes?

13 THE COURT: The complaint that Mr. Townsend
14 makes, in part, is that his sentence -- or his charge was
15 enhanced at a certain point in time, and it would appear
16 that his initial arrest warrant and indictment was for
17 strong-arm robbery; robbery, common law robbery,
18 strong-arm robbery.

19 At what point in the proceedings did the
20 charges change to include the ABHAN?

21 THE WITNESS: When the solicitor presented
22 the case to the grand jury during -- on May 12, 2014, the
23 assault and battery first degree was indicted as assault
24 and battery of a high and aggravated nature.

25 THE COURT: And he had initially been

1 arrested and charged with common law robbery and indicted
2 for common law robbery, but he had been indicted on -- he
3 originally had been charged in an arrest warrant with
4 common law robbery, strong-arm robbery on February 19th
5 when he was arrested, and then it was later, on May 12th,
6 when this matter was actually presented to the grand jury
7 that Solicitor Wilson also presented a request for a true
8 bill on an indictment for assault and battery of a high
9 and aggravated nature; is that correct?

10 THE WITNESS: Yes. There was an indictment
11 for the strong-arm robbery, but under the same warrant
12 number for the assault and battery first, it was indicted
13 as assault and battery of a high and aggravated nature.

14 THE COURT: So within a couple of months of
15 the initial arrest, it was known that this matter was
16 indicted on strong-arm robbery, as well as on assault and
17 battery of a high and aggravated nature, as I understand
18 it.

19 THE WITNESS: Yes, Your Honor.

20 THE COURT: And then the plea was actually
21 taken about -- just a little over a year to the date
22 after the arrest was made in February for 2015; is that
23 correct?

24 THE WITNESS: Yes, Your Honor.

25 THE COURT: So while you and Mr. Townsend had

1 over nine months of time to examine this matter as a
2 matter that involved both strong-arm robbery and ABHAN;
3 is that correct?

4 THE WITNESS: Yes, Your Honor.

5 THE COURT: All right, sir. Anything further
6 from either counsel?

7 MR. MURPHY: Nothing further, Your Honor.

8 MR. JOHNSON: Just two more questions.

9 THE COURT: Mr. Johnson?

10 MR. JOHNSON: May it please the Court:

11 REDIRECT EXAMINATION

12 BY MR. JOHNSON:

13 Q. Mr. King, so you would have discussed the ABHAN
14 charge with Mr. Townsend?

15 A. Yes.

16 Q. And he fully understood that he was going to be
17 pleading to an assault and battery of a high and
18 aggravated nature?

19 A. Yes. That was a big part of the case. Once he
20 was indicted for ABHAN, it took the case from two
21 nonviolent offenses to one violent offense that now
22 carried 85 percent, so it really changed the whole -- it
23 made his case more serious, but that was one of the
24 biggest things we discussed leading up to trial and as we
25 were preparing for trial and, you know, the guilty plea.

1 Q. But he understood that?

2 A. He did.

3 MR. JOHNSON: No further questions.

4 THE COURT: Mr. Murphy, you may consult with
5 your client. I see he may have some questions. Do you
6 wish to consult with him further before you close out?

7 MR. MURPHY: I don't have any questions for
8 Mr. King, but I would like to recall Mr. Townsend.

9 THE COURT: You may come down, Mr. King.
10 Thank you very much.

11 The applicant calls Mr. Timothy Townsend.
12 You're still under oath, and please take a seat in the
13 witness box.

14 TIMOTHY TOWNSEND,
15 having been previously duly sworn,
16 was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. MURPHY:

19 Q. Mr. Townsend, you heard the testimony of Mr. King,
20 and you also touched on this in your application and in
21 your direct. Did you understand the difference between
22 the strong-arm robbery, which you were initially charged,
23 and the ABHAN, which you were later indicted?

24 A. I understand the armed robbery charge. Like I
25 say, I ain't never know that my charge got enhanced until

1 I got ready to come to court. About a week later, that's
2 when he came to the county jail and told me, you know,
3 they upgraded this charge. I never received no letter or
4 nothing from the grand jury telling me that my charge was
5 upgraded.

6 Q. So it was about a week before you pled guilty is
7 when you knew of this ABHAN charge?

8 A. Right, right.

9 Q. And did you discuss the elements of the sentence
10 of ABHAN with Mr. King?

11 A. Yes, sir.

12 Q. But you didn't know about it until the week
13 before?

14 A. Right.

15 MR. MURPHY: That's all I have, Your Honor.

16 THE COURT: Mr. Johnson?

17 MR. JOHNSON: Just briefly, Your Honor. May
18 it please the Court:

19 CROSS-EXAMINATION

20 BY MR. JOHNSON:

21 Q. Mr. Townsend, at your guilty plea, the judge said
22 that you were indicted for assault and battery of a high
23 and aggravated nature, that you could get up to 20 years,
24 and then asked: I am told you want to plead guilty; is
25 that correct?

1 To which you respond: Yes, Your Honor.

2 A. Yes.

3 Q. Okay.

4 MR. JOHNSON: No further questions.

5 THE WITNESS: Yes.

6 MR. MURPHY: Nothing further, Your Honor.

7 THE COURT: Thank you, Mr. Townsend. You may
8 come down.

9 MR. JOHNSON: State has no further witnesses,
10 Your Honor.

11 THE COURT: Very well.

12 All right. In the matter of Timothy L.
13 Townsend, Applicant, I will deny the petition -- the
14 application for post-conviction relief. It is clear from
15 the transcript of record and the testimony given in this
16 hearing that the charges for both strong-arm robbery and
17 assault and battery of a high and aggravated nature were
18 explained to Mr. Townsend by his lawyer and by the Court,
19 Judge Roger M. Young presiding, at the time that the plea
20 was interposed by.

21 It is also clear that the addiction issues
22 that faced Mr. Townsend with treatment at Morris Village
23 were explored during the hearing that was held on the
24 guilty plea on February 12, 2015, and, therefore, it is
25 the determination of this Court that the application for

1 post-conviction relief is denied.

2 Mr. Townsend, I may would say to you, of
3 course, your concern, and I understand it very well, is
4 the length of time of the sentence, and just so you
5 understand, my hands are tied about just changing the
6 sentence. I can't do that on post-conviction relief.
7 All I can do is review the matter to see if a mistake
8 rises to the level of an error of law, serious error of
9 law, constitutional error, was committed during the
10 guilty plea, and I find that there was not. But I well
11 understand your concern about the length of the sentence,
12 and I wish you the best of luck.

13 Thank you, and that concludes this matter.

14 - - -

15 (Whereupon, the proceedings were concluded.)

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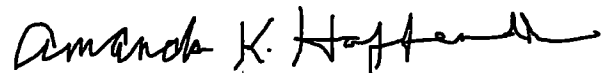
24

25

I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 12th of September 2016.

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

August 10, 2018




Circuit Court Reporter

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
)
TIMOTHY L. TOWNSEND #389418)
 Plaintiff,)
 vs.)
STATE OF SOUTH CAROLINA)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT

CASE NO: 2015-CP-10-3790

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

Plaintiff's Attorney: Christopher L. Murphy, Bar No. Address: Murphy Law Offices, LLC 234 Seven Farms Drive, Suite 128 Charleston, SC 29492 Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Rasheeda Cleveland, Bar No. Address: South Carolina Attorney General's Office PO Box 11549 Columbia, SC 29211 Phone: _____ Fax _____ E-mail: _____ Other: _____
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES / <input checked="" type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	March 29, 2018 Date submitted
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: \$ _____ EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input checked="" type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

CC60
AG
AT
GS
IDL

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
)
)
)
Timothy L. Townsend #389418,)
)
)
Applicant,)
)
)
v.)
)
)
State of South Carolina,)
)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

2015-CP-10-3790

ORDER OF DISMISSAL

FILED
2018 APR 17 AM 10:36
JULIE J. ARMSTRONG
CLERK OF COURT
BY

#1
JST

This matter comes before the Court by way of an Application for Post-Conviction Relief filed July 7, 2015. Respondent made its Return on January 27, 2016. An evidentiary hearing into the matter was convened on September 12, 2016 at the Charleston County Courthouse. Christopher L. Murphy, Esquire represented Applicant. J. Rutledge Johnson, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. Jason King, Esquire also testified. This Court had before it a copy of the records of the Charleston County Clerk of Court, records from the South Carolina Department of Corrections, the application, the State's Return and the guilty plea transcript.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the May 2014 term of the Charleston County Grand Jury for one counts of strong arm

robbery (2012-GS-10-2880) and one count of Assault and Battery of a High and Aggravated Nature (ABHAN) (2012-GS-10-2882). The Applicant was represented by Jason T. King, Esquire. On February 12, 2015, the Applicant pled guilty as indicted. The Honorable Roger M. Young, Sr. sentenced Applicant to incarceration for twenty (20) years for ABHAN and fifteen (15) years, concurrent, for Strong Arm Robbery. The Applicant did not appeal his conviction and sentence.

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

1. "Violation of 6th Amendment, Ineffective Assistance"
 - a. "Counsel fail(sic) to argue the enhancement of my indictment."

SUMMARY OF TESTIMONY

At the evidentiary hearing, Applicant testified he pled guilty and his counsel was Jason King. He claimed counsel did not show the plea judge that would have aided in a lesser sentence. Applicant admitted a letter from the Assistant Probate Judge showing he was involuntarily committed in April of 2014. Applicant admitted he was addicted to drugs at the time of the incident. Applicant testified he discussed this with Counsel. Applicant also testified he met with Counsel twice for about ten to fifteen minutes at the detention center during which they discussed the crimes of which Applicant was charged. Applicant claimed he did not know his original charge of Assault and Battery, 1st degree was enhanced to Assault and Battery of a High and Aggravated Nature. Applicant then stated he and Counsel discussed sentencing, but thought Counsel could obtain a

lesser sentence. Applicant lastly stated he sent Counsel letters during his representation, but did not discuss an appeal from the guilty plea.

On cross-examination, Applicant admitted that he was guilty of these crimes, but that his main gripe was that his sentence was too harsh. While he stated Counsel "should have done more" in his defense, Applicant admitted he apologized for his actions.

This Court then thoroughly questioned Applicant concerning the guilty plea transcript. Applicant also admitted that he had a history of committing string arm robberies on older women dating back to the 1980's.

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Counsel testified he was appointed to Applicant's case and has been a public defender since 2005. Counsel has participated in hundreds of guilty pleas. Counsel testified he obtained and discussed the Rule 5 and Brady materials with Applicant, along with the crimes and sentence ranges.

Counsel stated Applicant claimed he was not guilty of these charges. Counsel stated there was Applicant DNA found on a hat and discussed this with Applicant.

Counsel then testified he and Applicant met seven times leading up to a trial and that he attempted to obtain a plea offer from the State. Applicant pled "straight up" in this case. Counsel testified he had information concerning Applicant's mental health and drug addiction from the examiner's report. Counsel then stated he was not concerned with Applicant's mental stated on the day of the plea. Applicant admitted his guilt during the plea, and it was Applicant's decision to plead guilty.

On cross-examination, Counsel could not recall exactly how long his meetings with Applicant lasted. Counsel testified this was a mitigation case, rather than a guilt/innocence case.

Counsel stated that applicant understood the sentence, and that the solicitor Scarlett Wilson handled this case and took a hard line stance. Counsel also testified that he did not tell applicant a specific sentence that he would receive; however, applicant received the maximum sentence for each charge, although they were run concurrently. Counsel's hoping that applicant would not get the maximum sentence.

Counsel admitted that he did not discuss any options post plea; however, applicant never indicated he wanted an appeal, and counsel found no ground for appeal. Counsel did not discuss a motion to reconsider because he found no grounds on which to do so and there was nothing new to present to the court.

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Upon questioning by this Court, Counsel testified that the charge was enhanced 2014 to assault and battery of a high aggravated nature when the Solicitor presented the case to the grand jury on May 12, 2014. Counsel then testified the guilty plea was accepted over a year after applicant's arrest. Counsel lastly testified that he and the applicant had ample opportunity to discuss the enhanced charge.

Applicant was recalled to the witness stand and testified that he did not know the charge was enhanced from assault and battery to assault and battery of a high and aggravated nature until a week before the guilty plea. However, on cross-examination he admitted that he told the plea court he wanted to plea to assault and battery of a high and aggravated nature.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post conviction relief hearing. This Court has further had the opportunity to observe

the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

Ineffective Assistance of Counsel

Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the Applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, *citing* Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at

117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

This Court finds the Applicant's regarding counsel's ineffectiveness is not credible while finding Counsel's testimony credible.

This Court also finds counsel provided effective assistance of counsel in this case. Counsel advised Applicant of all of the charges and the sentences the charges carried. Applicant testified he pled guilty because he was guilty of these charges. Applicant admitted nobody threatened him to plead guilty, and there were no promises to entice him to plead guilty. This Court finds Applicant made the decision to plead guilty on his own accord with the help of learned, prepared counsel.

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Additionally, this Court finds Applicant made this decision freely and voluntarily without any threats or promises from anyone else. Furthermore, this Court finds that it was ultimately the Applicant's decision to plead guilty.

This Court also finds the guilty plea transcript dispositive of this case as it is a contemporaneous recording of the proceedings. This Court finds the Applicant waived his rights to a jury trial.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel’s performance. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. Therefore, these allegations are denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice. This Court also finds as to all other allegations that Applicant failed to present evidence of such claims and thus, this Court deems them abandoned.

#7
 This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel’s assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant’s behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and

dismissed with prejudice; and

- 2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED!

April 6, 2018
~~*[Signature]*~~
Columbia, South Carolina

[Signature]
 Jean H. Toal
 Presiding Circuit Court Judge
 Ninth Judicial Circuit

2015-CP-10-6026

#8

SAW20140201400

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER
1402603

ARREST WARRANT NUMBER
2014A1010200974

DATE OF ARREST

February 18, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: *[Signature]* MAY 12 2014

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2014GS1002880

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

May 2014 Term

THE STATE

vs.

TIMOTHY LAMAR TOWNSEND
DOB: 1962 [REDACTED]
B/M

Indictment for
STRONG ARM ROBBERY

FILED

5/16/2014 2:50:32 PM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

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

STRONG ARM ROBBERY

That in Charleston County, South Carolina, on or about February 18, 2014, the Defendant, **TIMOTHY LAMAR TOWNSEND**, did take and carry away personal property from the person or presence of Elizabeth Christian, by means of force, threats or intimidation and with the intent to deprive Elizabeth Christian, permanently of such property, described as: a purse containing personal items; this is in violation of the Common Law of South Carolina and Section 16-11-325, of the Code of Laws of South Carolina (1976) as amended.

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



SCARLETT A. WILSON
SOLICITOR

70

SAW20140201400

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER
1402603

ARREST WARRANT NUMBER
2014A1010200975

DATE OF ARREST

February 18, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury Date: *[Signature]* MAY 12 2014

VERDICT

Foreperson of Petit Jury Date:

INDICT

DOCKET NO. 2014GS1002882

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

May 2014 Term

THE STATE

vs.

TIMOTHY LAMAR TOWNSEND
DOB: 1962 [REDACTED]
B/M

Indictment for

ASSAULT AND BATTERY
OF A
HIGH AND AGGRAVATED NATURE

FILED

5/16/2014 2:50:32 PM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS. Timothy Lamar Townsend

INDICTMENT/CASE#: 2014GS1002880
A/W#: 2014A1010200974
Date of Offense: 2/18/2014
S.C. Code § : 16-11-0325
CDR Code #: 0137

AKA:
Race: BLACK Sex: M Age: 52
DOB: 1962 SS#:
Address:
City, State, Zip: North Charleston, SC 29405-3918
DL#: SID#: SC00278072

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Strong Arm Robbery

CONVICTED OF or PLEADS

in violation of § 16-11-0325 of the S.C. Code of Laws, bearing CDR Code # 0137
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

ATTEST: Wilson, Scarlett A SC Bar# 65315 Defendant Attorney for Defendant SC Bar# 68630

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 0 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS
days/hours Public Service Employment

Recipient:

Table with 3 columns: Description, Rate, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$300, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 30-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$3.90, TOTAL \$133.90

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

Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk: Callie
Court Reporter: Phyllis Norton
SCCA/217 (03/2011)

Presiding Judge:
Judge Code: 2134
Sentence Date: 2/12/15

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

73

COUNTY OF Charleston
STATE VS.
Timothy Lamar Townsend

INDICTMENT/CASE#: 2014GS1002882
A/W#: 2014A1010200975
Date of Offense: 2/18/2014
S.C. Code § : 16-03-0600(B)(1)
CDR Code #: 3411

AKA:
Race: BLACK Sex: M Age: 52
DOB: 1962 SS#:
Address:
City, State, Zip: North Charleston, SC 29405-3918
DL#: SID#: SC00278072

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was TO: Assault and Battery of a High and Aggravated Nature

CONVICTED OF or PLEADS

in violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

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

ATTEST: Wilson, Scarlett A SC Bar# 65315 Defendant
Simon J. King Attorney for Defendant SC Bar# 68630

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$3.90, TOTAL \$133.90

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Amanda Hofflander
Court Reporter: Phyllis Norton
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 21341
Sentence Date: 2/12/14