

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to Greenville County

Honorable Letitia H. Verdin, Circuit Court Judge

\_\_\_\_\_  
EDWARD LEE WHITLOCK, JR.

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-000947

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

JOANNA K. DELANY  
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON  
Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General  
Rembert Dennis Building  
1000 Assembly Street  
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

RECEIVED

JAN 18 2019

S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA )  
 ) COURT OF GENERAL SESSIONS  
 COUNTY OF GREENVILLE )

State of South Carolina, )  
 )  
 v. ) Case No. 16-GS-23-4431 *et. al.*  
 )  
 Edward Lee Whitlock, Jr., )  
 )  
 Defendants. )

**TRANSCRIPT OF GUILTY PLEA**

The within Hearing in the above-captioned matter was held on July 19, 2016, before The Honorable Edward Miller in Courtroom 8 of the Greenville County Courthouse, 305 East North Street, Greenville, South Carolina; attended by counsel as follows:

**APPEARANCES:**

Christy Sustakovich, Assistant Solicitor  
 13th CIRCUIT SOLICITOR'S OFFICE  
 ...Appearing for State of South Carolina

Parker Baxley, Public Defender  
 GREENVILLE COUNTY PUBLIC DEFENDER  
 ...Appearing for Defendant

**Deborah Garrison**  
*Circuit Court Reporter – 13th Judicial Circuit*  
 P O Box 27145  
 Greenville, South Carolina 29616  
[dgarrison@sccourts.org](mailto:dgarrison@sccourts.org)

State of South Carolina v Edward Lee Whitlock, Jr.  
Case No. 16-GS-23-4431 and 4432  
Hearing of July 19, 2016  
Before The Honorable Edward Miller

1 THE COURT: Jail days?

2 SOLICITOR SUSTAKOVICH: Yes, sir.

3 Two hundred and forty-eight (248) days, Your  
4 Honor.

5 CLERK: Your Honor, in the case of 16-  
6 GS-23-4431, the State versus Edward Lee  
7 Whitlock, Jr., indicted for kidnaping;  
8 pleading to the same, it is a true bill.

9 In the case of 2016-GS-23-4432, the State  
10 versus Edward Lee Whitlock, Jr., ---

11 THE COURT: Keep it down out there!

12 CLERK: --- indicted for assault with  
13 intent to commit sexual conduct; pleading to  
14 the same, also a true bill.

15 (WHEREUPON DEFENDANT SWORN)

16 THE COURT: In the last twenty-four  
17 hours have you had any alcohol, drugs or  
18 medication?

19 DEFENDANT: Just my regular mental  
20 health medication.

21 THE COURT: Which is what?

22 DEFENDANT: Haldol.

23 THE COURT: Who prescribes it for you?

24 DEFENDANT: Jail. The counselor at the  
25 jail, psychiatrist.

## State of South Carolina v Edward Lee Whitlock, Jr.

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Case No. 16-GS-23-4431 and 4432

Hearing of July 19, 2016

Before The Honorable Edward Miller

1 THE COURT: Okay. How about when  
2 you're not in jail, do you go to therapy?

3 DEFENDANT: No, sir.

4 PARKER BAXLEY: Your Honor, he's been  
5 in jail for the majority of the last thirty  
6 years.

7 THE COURT: She just said two hundred  
8 and thirty-eight days.

9 SOLICITOR SUSTAKOVICH: Your Honor,  
10 he just got out in October after serving a  
11 thirty-year sentence for criminal sexual  
12 conduct with a minor; then picked up this new  
13 charge, which I'm going to ---

14 THE COURT: Oh, okay. Do you under-  
15 stand what's going on today?

16 DEFENDANT: Yes, sir.

17 THE COURT: Any competency issues,  
18 Counselor?

19 PARKER BAXLEY: None, Your Honor.

20 THE COURT: You got these two indict-  
21 ments. The first one alleges that you did,  
22 in Greenville County, on November 10, 2015,  
23 unlawfully seize, abduct, confine, inveigle,  
24 decoy or carry away S.M. without the  
25 authority of law. Kidnaping carries -- what?

State of South Carolina v Edward Lee Whitlock, Jr.

Case No. 16-GS-23-4431 and 4432

Hearing of July 19, 2016

Before The Honorable Edward Miller

1 Thirty?

2 SOLICITOR SUSTAKOVICH: Yes, Your Honor.

3 THE COURT: This is a Violent offense  
4 and Most Serious offense. Violent means that  
5 it impacts parole eligibility. Most Serious,  
6 if you get convictions for two or more Most  
7 Serious offenses you're eligible for life in  
8 prison without the possibility of parole. Do  
9 you understand?

10 DEFENDANT: Yes, Your Honor.

11 THE COURT: The next one alleges that  
12 you did, in Greenville County on November  
13 10<sup>th</sup>, 2015, commit an assault on S.M.  
14 with the intent to commit criminal sexual  
15 conduct accompanied by the use of a deadly  
16 weapon. What does this one carry?

17 SOLICITOR SUSTAKOVICH: Up to thirty,  
18 Your Honor.

19 THE COURT: Up to thirty. It's Violent  
20 and Most Serious. Do you understand that?

21 DEFENDANT: Yes, sir.

22 THE COURT: How do you want to plead to  
23 it?

24 DEFENDANT: Guilty.

25 THE COURT: Guilty?

State of South Carolina v Edward Lee Whitlock, Jr.  
Case No. 16-GS-23-4431 and 4432  
Hearing of July 19, 2016  
Before The Honorable Edward Miller

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1 DEFENDANT: Yes, sir.

2 THE COURT: Is that your free and  
3 voluntary decision?

4 DEFENDANT: Yes, sir.

5 THE COURT: Do you understand that you  
6 have an absolute right to a trial by a jury  
7 where you would be presumed innocent unless  
8 and until the State could prove you guilty  
9 beyond any reasonable doubt of each and every  
10 element of each offense you're charged with;  
11 that you'd have a right to confront and  
12 cross-examine the witnesses and the evidence  
13 put up against you by the State; you'd have a  
14 right to compel in court relevant and  
15 competent evidence in your own defense; or,  
16 you could remain silent and your silence  
17 cannot be held against you; that you could  
18 never be compelled to incriminate yourself.  
19 Do you understand those rights?

20 DEFENDANT: Yes, sir.

21 THE COURT: Do you want to give all  
22 those rights up to enter these pleas?

23 DEFENDANT: Yes, sir.

24 THE COURT: Are you guilty?

25 DEFENDANT: Yes, sir.

## State of South Carolina v Edward Lee Whitlock, Jr.

Case No. 16-GS-23-4431 and 4432

Hearing of July 19, 2016

Before The Honorable Edward Miller

1 THE COURT: Are you totally and  
2 completely satisfied with the representation  
3 of your attorney?

4 DEFENDANT: Yes, sir.

5 THE COURT: Do you know what the  
6 evidence is that the State has against you?

7 DEFENDANT: Yes, sir.

8 THE COURT: Please listen while they  
9 tell us about it.

10 SOLICITOR SUSTAKOVICH: Thank you, Your  
11 Honor, may it please the court. As to the  
12 facts, in 1993 this defendant was convicted  
13 of criminal sexual conduct with a minor in  
14 the first degree and received a thirty-year  
15 sentence. Then, Your Honor, in October of  
16 2015 he was released from prison.

17 Two weeks after his release, Judge, he  
18 went to his Aunt S.M.'s house, the victim in  
19 this case, and tried to rape his aunt. His  
20 aunt was almost seventy years old at the  
21 time. The defendant knocked on the victim's  
22 door. S.M. came to the door. He asked if  
23 he could come in. She said yes. The victim  
24 stated that they were in the kitchen for  
25 about an hour talking when this defendant

## State of South Carolina v Edward Lee Whitlock, Jr.

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Case No. 16-GS-23-4431 and 4432

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Before The Honorable Edward Miller

1 began to act funny while he was looking  
2 through a family album. He began scratching  
3 his arms strangely and the victim went and  
4 gave him some lotion to put on his arms.  
5 That's when this defendant pulled out a knife  
6 and showed it to the victim, Judge. He then  
7 dropped it and grabbed her. He then ripped  
8 her robe off and began kissing his aunt.  
9 They fell to the floor. The victim fought  
10 him, trying to grab the knife that was beside  
11 her but the victim had too tight a grasp on  
12 her wrists. He then pulled her into the  
13 bedroom, ripped her pajama top open, then  
14 started touching her breasts. She fell. The  
15 defendant then tried to pull her pants off.  
16 At this point the victim pretended to be  
17 passed out, Judge, and at that point the  
18 defendant seemed to, quote, "come to his  
19 senses" and the assault stopped. At that  
20 point his aunt took him to a halfway house.  
21 He apologized on the way to the halfway  
22 house.

23 That would be the State's case as  
24 presented at trial.

25 THE COURT: All that true?

## State of South Carolina v Edward Lee Whitlock, Jr.

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Case No. 16-GS-23-4431 and 4432

Hearing of July 19, 2016

Before The Honorable Edward Miller

1                   DEFENDANT:       Yes, sir.

2                   THE COURT:       What is the State's  
3                   recommendation?

4                   SOLICITOR SUSTAKOVICH:    Your Honor,  
5                   this case is eligible for life without  
6                   parole. The State is allowing him to enter  
7                   a negotiated plea to a thirty-year prison  
8                   sentence.

9                   THE COURT:       All right. Is that what  
10                  you want me to do?

11                  DEFENDANT:       Yes, sir.

12                  THE COURT:       And?

13                  PARKER BAXLEY:     Your Honor, if you're  
14                  inclined to go along with it, I certainly  
15                  won't try to talk you out of it. Mr.  
16                  Whitlock and I've had several discussions  
17                  about what this means and he does understand  
18                  the consequences of his plea.

19                  SOLICITOR SUSTAKOVICH:    Your Honor,  
20                  the victim did want me to put on the record  
21                  that this is her nephew and she would like to  
22                  ask if he can get mental health counseling in  
23                  prison.

24                  PARKER BAXLEY:     He desperately needs  
25                  that.

State of South Carolina v Edward Lee Whitlock, Jr.  
Case No. 16-GS-23-4431 and 4432  
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Before The Honorable Edward Miller

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THE COURT: I don't think that I ---

SOLICITOR SUSTAKOVICH: I think that there's a unit or something that ---

PARKER BAXLEY: I don't know that you ordering would necessarily make much of a difference, Your Honor.

SOLICITOR SUSTAKOVICH: She just wanted me to tell Your Honor that.

PARKER BAXLEY: I can tell you this, if it eases the Court's mind, that he suffered some terrible trauma as a small child and that's ---

THE COURT: I'm sure. All right. Thirty years. Good luck.

(HEARING CONCLUDED)



STATE OF SOUTH CAROLINA

County of Greenville

Edward Lee Whitlock, JR #201405  
Full name and prison number (if any) of Applicant,

vs.

Greenville County  
Name of Respondent.

General Sessions

In the Court of Common Pleas

2017 FEB 3 4 47  
PAUL M. WILKINS  
CLERK OF COURT  
GREENVILLE CO. S.C.

APPLICATION FOR  
POST-CONVICTION RELIEF

2017-CP-23-00695

**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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention Broad River Correctional Institution

2. Name and location of Court which imposed sentence Greenville county General Sessions

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

(a) A/w # 2015A2330209167 SEX ASSAULT WITH INTENT TO COMMIT CRIM SEX COND

(b) A/w # 2015A2330209169 Kidnapping

(c) \_\_\_\_\_

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

(a) ASSAULT WITH ATTEMPT TO COMMIT SEX COND - 30 years 7-19-16

(b) Kidnapping 30 years 7-19-16 concurrent

(c) \_\_\_\_\_

5. Check whether a finding of guilty was made

- (a) after a plea of guilty guilty plea
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_

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

N/A

7. If you answered "yes" to (6), list

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

- i. N/A
- ii. N/A
- iii. N/A

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

- i. N/A
- ii. N/A
- iii. N/A

(c) the date of each such result:

- i. N/A
- ii. N/A
- iii. N/A

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

- i. N/A
- ii. N/A
- iii. N/A

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) N/A
- (b) N/A
- (c) N/A

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

- (a) Ineffective Assistance of Counsel
- (b) Due Process Violation
- (c) \_\_\_\_\_

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) Failure to Investigate
- (b) Abandonment
- (c) had discovery with a physc Doctors order for me to go to Patzpatrick B. Harris and she Refused to give me a mental Health Evaluation when she had Doctors name and order for a Bed to a mental Hospital See attached page

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? no

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? no

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

12. If you answered "yes" to any part of (11), 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. \_\_\_\_\_

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

15. If any ground set forth in (9) 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) \_\_\_\_\_

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

- (a) your arraignment and plea? guilty 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? \_\_\_\_\_

17. If you answered "yes" to one or more parts of (16), list:

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

- i. PARKER ANN Baxley  
13th Circuit Public Defender
- ii. Greenville, S.C. 29601
- iii. \_\_\_\_\_

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

- i. guilty plea
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

18. State clearly the relief you seek in filing this application.

New trial  
sent to a mental Hospital

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

no

STATE OF SOUTH CAROLINA

County of Greenville

VERIFICATION

I, Edward Lee Whitlock, JR, 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.

Edward Whitlock

SWORN to and subscribed before me this 24 day of JANUARY, 192017  
[Signature] (L.S.)  
Notary Public

My Commission Expires: 9/16/17

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

I, Edward Lee Whitlock, JR, 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 therefor.

Edward Whitlock  
Applicant

SWORN or affirmed to and subscribed before me this 24 day of JANUARY, 192017  
[Signature]  
Notary Public

My Commission Expires 9/16/17

Motion of Discovery

Ineffective Assistance of Counsel  
Failure to Investigate

In motion of discovery, Said that I was placed in Greenville Memorial Hospital under the orders of Doctor Staener where I would be held waiting on a open Bed at Patrick B. Harris mental Hospital

also in motion Cousin Tracy worthy stated I've been in and out since about age 9 for these type of charges and that I have mental Health issues

also in motion - Victim stated that if I get mental Health treatment she would not press charges

Also on The crime scene Investigation Report That my Brother comes picks me up and Takes me to a Hospital for psychiatric evaluation

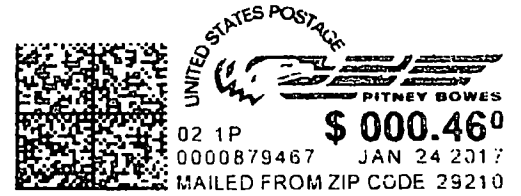
I informed my public defender "Parker Ann Baxter" I had mental Health problems and needed mental Health Treatment she Refused and I told her I had mental Health problems all my life and had a major head Surgery when I was 6 months old,

These cases Rosemond v. Catoe, 690 S.E.2d 2009  
Counsel fail to present evidence of defendants mental Illness when she had it all in discovery and Matthews v. State, 596 S.E.2d 49 (S.C.) 2004 failing To Request a competence hearing

Solicitor to judge Miller at Plea victim Request I get mental Treatment and I told Judge Miller 7. one artina Habel mental Health

Edward L. Whitehead #201403  
Broad River, Carr, Inst/mt 1048  
4460 Broad River, Rd  
Columbia S.C. 29210

COLUMBIA  
SC 290  
25 JAN '17  
PM 3:1



2017-CP-23-00695

Paul B. Wickensimer  
Greenville County Clerk  
303 East North Street  
Greenville S.C. 29601

**LEGAL MAIL**

29601-212199



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Edward Lee Whitlock, Jr., #201405,	)	2017-CP-23-0695
	)	
Applicant,	)	
	)	<b>RETURN</b>
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____)		

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on February 3 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. In May 2016, the Greenville County Grand Jury indicted Applicant for kidnapping (2016-GS-23-4431), and assault with intent to commit criminal sexual conduct (2016-GS-23-4432). Parker A. Baxley, Esquire represented Applicant. Assistant Solicitor Christine K. Sustakovitch, Esquire prosecuted the case. On July 19, 2016, Applicant pleaded guilty as indicted to all charges before the Honorable Edward W. Miller. Pursuant to a negotiated sentence, Judge Miller sentenced Applicant to imprisonment for concurrent terms of thirty years each for kidnapping and assault with intent to commit criminal sexual conduct. Applicant did not appeal his conviction or sentence.

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

this Return upon receipt of any relevant materials.

## II.

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

1. "Due Process Violation" and
2. "Ineffective Assistance of Counsel," in that:
  - a. "Failure to investigate;"
  - b. "Abandonment;"
  - c. "had discovery with a phyc Doctors (sic) order for me to go to Patrick B. Harris and she refused to give me a mental health evaluation when she had Doctor's name and order for a bed to a mental hospital;"
  - d. "In motion of discovery, said that I was placed in Greenville Memorial Hospital under the orders of Doctor Staener where I would be held waiting on a (sic) open bed at Patrick B. Harris mental hospital;"
  - e. "Also in motion cousin Tracy Worthy stated I've been in an out since about age 9 for these type of charges and that I have mental health issues;"
  - f. "Also in motion – victim stated that if I get mental health treatment she would not press charges;"
  - g. "Also on the crime scene investigation report that my brother comes picks me up and takes me to a hospital for psychiatric evaluation;"
  - h. "I informed my public defender 'Parker Ann Baxley' I had mental health problems and needed mental health treatment[;] she refused and I told her I had mental health problems all my life and had a major head surgery when I was 6 months old. . . Solicitor to Judge Miller at plea[;] victim request[ed] I get mental treatment and I told Judge Miller I was getting Haldol [for] mental health problems

## III.

Respondent interprets Applicants allegations as a due process violation due to ineffective assistance of counsel. Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as

having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. 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, (1985).

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

#### IV.

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

V.

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

VI.

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

*[Signature block on following page]*

Respectfully submitted,

ALAN WILSON  
Attorney General

ROBERT BOLCHOZ  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

DESHAWN H. MITCHELL  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211  
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July 26, 2017

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 EDWARD LEE WHITLOCK, JR., 201405 )  
 )  
 Applicant, )  
 )  
 vs )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS


2017-CP-23-0695

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.
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**R. Mills Ariail, Jr., Esquire**  
**11 North Irvine Street; Suite 11**  
**Greenville SC 29601**

DATED this 26<sup>th</sup> day of July, 2017.

  
 Judy A. Carey, Legal Assistant  
 For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Edward Whitlock,	)	Case No(s) .:2017CP2300695
	)	
Applicant,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

October 25, 2017  
 Greenville, South Carolina

B E F O R E:

**HONORABLE LETITIA H. VERDIN**, Judge.

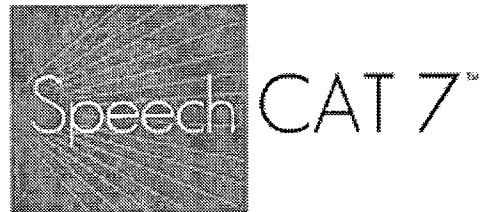
A P P E A R A N C E S:

**R. MILLS ARIAIL**, Esquire  
 Attorney for the Applicant

**DESHAWN MITCHELL**, Esquire  
 Attorney for the Respondent

**Teresa B. Johnson, CVR-M-CM**,  
 Circuit Court Reporter  
 P.O. Box 2812  
 Greenville, S.C. 29602

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Edward Whitlock

by Mr. Ariail            5

by Mr. Mitchell            12

Parker Baxley McClain

by Mr. Ariail            16

by Mr. Mitchell            23

Certificate of Reporter    26

EXHIBITS PAGENO.DESCRIPTIONID EV**PLAINTIFF EXHIBITS**

(No exhibits offered.)

**DEFENSE EXHIBITS**

(No exhibits offered.)

**COURT EXHIBITS**

(No exhibits offered.)

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**P R O C E E D I N G S**

(Proceedings begin on the 25th day of October,  
2017 at approximately 10:40 a.m.)

**THE COURT:** Yes, sir?

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

**THE COURT:** Yes, sir.

**MR. MITCHELL:** This is 2017-CP-23- 0695,  
Edward Whitlock, Jr. versus the State of South  
Carolina. Applicant is presently confined in the  
South Carolina Department of Corrections  
pursuant to an order of commitment by the  
Greenville County Clerk of Court. In May 2016,  
the Greenville County Grand Jury indicted  
Applicant for kidnapping and assault with intent  
to commit criminal sexual conduct. Parker A.  
Baxley represented the applicant.

On July 19th, 2016, Applicant pled guilty  
as indicted to all charges before the Honorable  
Edward W. Miller. Pursuant to a negotiated  
sentence, Judge Miller sentenced Applicant to  
imprisonment for concurrent terms of 30 years  
each for kidnapping and assault with intent to  
commit criminal sexual conduct. Applicant did  
not appeal his conviction.

1           He is present in the courtroom today  
2           represented by Mr. Mills Ariail.

3           **THE COURT:**    Mr. Ariail?

4           **MR. ARIAIL:**    Thank you, Your Honor. We're  
5           ready to proceed.

6           **THE COURT:**    Yes, sir.

7           **MR. ARIAIL:**    I call Mr. Whitlock as the  
8           first witness.

9           **THE COURT:**    Mr. Whitlock?

10          **THE CLERK:**    Mr. Whitlock, please step  
11          around and place your left hand on the Bible and  
12          raise your right hand.

13                           **EDWARD WHITLOCK**

14          having first been duly sworn, testifies as follows:

15          **THE CLERK:**    Thank you. You may be seated.  
16          Please state your full name for the record.

17          **THE WITNESS:**   Edward Whitlock.

18          **THE CLERK:**    Thank you.

19                           **DIRECT EXAMINATION**

20          **BY MR. ARIAIL:**

21           **Q**    Mr. Whitlock, how are you doing today?

22           **A**    All right.

23           **Q**    Good. We're here in regards to your PCR.

24          Ms. Baxley represented you on those; is that correct?

25           **A**    Yes, sir.

1           **Q**     Okay. Now, you went forward and, I guess,  
2     pled guilty to kidnapping and assault with intent to  
3     commit criminal sexual conduct.

4           **A**     Yes, sir.

5           **Q**     You remember doing that?

6           **A**     I remember pieces and bits of it.

7           **Q**     Okay. We'll get into that. Ms. Baxley  
8     represented you in regards to that?

9           **A**     Yes, sir.

10          **Q**     Did you have any discussions with her about  
11     your case before you pled guilty?

12          **A**     The only thing is, she just told me that I  
13     was facing -- if I didn't plead guilty, I was facing  
14     life in prison and, you know, that that would be best  
15     that I pled guilty. I didn't -- I didn't have all of  
16     the evidence, all of my motion, and all of that  
17     stuff. I didn't know that until after I got my time.

18          **Q**     Okay. Let's go through that. Many times do  
19     you think you met with her about your case?

20          **A**     I seen her twice, and I've talked to her  
21     several times on the phone. I talked to her twice in  
22     person.

23          **Q**     Did she give you the information about what  
24     the alleged victim was going to say if you went to  
25     trial, in this case?

1           **A**    No, not as I remember, no, sir.

2           **Q**    Now, you sent me a bunch of statements and  
3 supplemental reports and I am showing what this  
4 victim was going to say. Are you saying you didn't  
5 see these or know this before you pled guilty?

6           **A**    No, I didn't know before I pled guilty, no.

7           **Q**    Okay. Now, I know at the guilty plea, they  
8 went through a factual scenario as to what you were  
9 pleading guilty to, and you said I understand that.  
10 You remember that?

11          **A**    I was on a bunch of medications and stuff  
12 at that time.

13          **Q**    Okay. That's the main -- I guess, the main  
14 crux of your PCR is that you did not understand what  
15 you were doing at that time, due to mental issues and  
16 medication you were taken; is that correct?

17          **A**    Yes, sir.

18          **Q**    Tell me a little bit about the mental  
19 health issues you were having and your status at that  
20 time.

21          **A**    I was taking Haldol shots, mental health  
22 medication, and I was on other mental health  
23 medications for hearing voices, seeing things, and I  
24 been cutting -- cutting myself, which I was doing in  
25 the county jail. Medication -- just, I was nervous --

1 which I am now -- but, you know, I was nervous at the  
2 plea.

3 I didn't know everything that was going on,  
4 because I was in the hospital to get mental health  
5 treatment and was told two days later, against the  
6 doctor's order, to leave. I was supposed to be going  
7 to Patrick B. Harris, but I was told to leave the  
8 hospital for no reason whatsoever. I didn't leave the  
9 hospital. I went out in front of the hospital, and I  
10 called my little brother, Billy Whitlock, and told  
11 him, I said, "Look." He said, "No, you ain't supposed  
12 to leave the hospital." He said something about the  
13 victim didn't want me to leave. They wanted me to get  
14 help. I said okay.

15 They come and pick me up and took me to my  
16 other brother's house. He come pick me up. And they  
17 come and lock me up -- the County come and pick me  
18 up. I was in the hospital to get mental health  
19 treatment per a doctor's order. They released me --  
20 somebody had me released from the hospital.

21 Q Tell me, how long before that, I guess, was  
22 the plea?

23 A Yes, sir. When they let me out the  
24 hospital, they locked me up the next day. I was in  
25 the county jail for about seven months.

1           **Q**     Seven months?

2           **A**     Yes, sir.

3           **Q**     Okay. So you were getting help, there were  
4 all of these issues that was going on mental  
5 health-wise. Then, they locked you up. Did you get  
6 any treatment while you were incarcerated prior to  
7 the plea?

8           **A**     No, I was -- they kept putting me in the  
9 stripped-out cell in the county jail because I was  
10 cutting. A few different times, they put me in the  
11 stripped-out observation cell ---

12          **Q**     Okay. So --

13          **A**     --- and had me on mental health  
14 medications.

15          **Q**     That was the Haldol that you were talking  
16 about?

17          **A**     Haldol and a few other ones. I forget what  
18 they was. There was a few different ones. The Haldol  
19 was the injection. I was getting it every 30 days.

20          **Q**     Did you talk to Ms. Baxley about that and  
21 what was going on with you mental health-wise at that  
22 time?

23          **A**     I asked her a couple of different times and  
24 told her I needed to get mental health treatment, and  
25 she just said she didn't think I needed it.

1           **Q**    Did you and her talk about an evaluation?

2           **A**    Yes, sir.

3           **Q**    You had discussion with her about that?

4           **A**    I asked her if she would get me one. I was  
5 supposed to have got one when I was at the hospital.  
6 She told me and my brother, Billy, both, that she  
7 didn't think that I needed one.

8           **Q**    Okay. When you went for this plea, why, at  
9 that time, did you not raise all of these issues and  
10 say, "I'm not ready to go forward with this. I've got  
11 mental health issues. I don't understand what was  
12 going on?"

13          **A**    Really, I didn't know what to do that day.  
14 I was nervous and upset. They kept telling me, "If  
15 you don't plead, you're going to get natural life. If  
16 you don't plead, you're going to get natural life."  
17 That's what just kept going through my mind. I didn't  
18 know what to do. I didn't have all the information.  
19 If I had all the information that I had after that,  
20 once I got to prison, there's no way I would've  
21 plead.

22          **Q**    Okay. Now, those are the issues and I tried  
23 to go through and summarize pretty much what you put  
24 in your application and the things we've talked about  
25 during our time together. Are there other things that

1 you want to bring up to the Court that you were  
2 saying that Ms. Baxley didn't do or was ineffective  
3 in doing?

4 **A** Yeah, I feel like it was ineffective  
5 because she told me -- one time I asked about the  
6 motion for discovery and she said I don't think you  
7 need that in the county jail. I was, like, okay. I  
8 didn't know what a motion consist of because, you  
9 know, I quit school in fifth grade. I've been going  
10 through a lot of mental health stuff. I don't  
11 understand a whole lot of things. So I just agreed to  
12 everyone.

13 Once I got my motion and seen everything  
14 that was in it, you know, that could have been my  
15 defense, because the victim herself, you know, saying  
16 I want him to get mental health treatment and I won't  
17 press charges. You know, I didn't know all of that.

18 **Q** Was there anything -- outside of the victim  
19 saying that she just wanted you to get mental health  
20 treatment, was there anything else that would have  
21 said or helped you to say, "I didn't do this" or  
22 "This didn't happen the way the victim said"?

23 **A** I don't really remember.

24 **Q** There weren't any other witnesses?

25 **A** Not as I know of.



1           **Q**    I have some questions for you. Prior to  
2 this charge, you had been incarcerated, correct?

3           **A**    Yes, sir.

4           **Q**    For a previous CSC, correct?

5           **A**    Yes, sir.

6           **Q**    Now, with regard to that charge, while you  
7 were in prison, did you plead guilty to any type of  
8 mental health -- did you have any mental health  
9 issues when you pled guilty to that previous charge?

10          **A**    Yes, sir.

11          **Q**    So you pled guilty but mentally ill to that  
12 charge?

13          **A**    I pled guilty.

14          **Q**    Were you receiving any mental health  
15 treatment in jail prior to you being released?

16          **A**    I was getting mental health medication and  
17 stuff.

18          **Q**    Okay. You were getting mental health  
19 medication. Okay.

20          **A**    Yeah.

21          **Q**    I want to talk to you a little bit about  
22 these current charges, how many times did you meet  
23 with Ms. Baxley?

24          **A**    Twice.

25          **Q**    Twice?

1           **A**    Yes, sir.

2           **Q**    How many times did you talk to her on the  
3 phone?

4           **A**    Four or five times.

5           **Q**    Four or five times? During the course of  
6 these discussions, did you guys talk about the  
7 evidence that the State had against you?

8           **A**    They just said -- kept telling me the same  
9 thing about pleading guilty. That was basically it,  
10 plead guilty or what was going to happen. She would  
11 try to work with the judge -- with the solicitor or  
12 prosecutor or somebody to get a plea bargain, plea  
13 agreement. And I kept telling her about my problems  
14 and stuff.

15          **Q**    So that's a yes or no? Did she talk to you  
16 about the evidence, or didn't she?

17          **A**    Some of it, yes.

18          **Q**    Some of it. Did she talk to you about any  
19 defenses in the case, about how you can proceed?

20          **A**    I don't remember.

21          **Q**    You don't remember?

22          **A**    No, sir.

23          **Q**    Okay. I want to talk to you a little bit  
24 about the guilty plea hearing itself. I know you said  
25 on direct examination, when the judge asked you if

1 you were suffering from any type of illnesses or  
2 mental illnesses, you told her that you were on  
3 medication?

4 **A** Yes, sir.

5 **Q** You recall telling the judge that you could  
6 go forward with the guilty plea?

7 **A** I really don't remember everything that  
8 day. I just had gotten the shot that morning. I don't  
9 -- like I said, I was nervous and I was just ready to  
10 get it over with. I don't remember everything.

11 **Q** Do you recall telling the judge that you  
12 were satisfied with Ms. Baxley?

13 **A** No.

14 **Q** You don't?

15 **A** Yeah.

16 **Q** You do?

17 **A** Yeah.

18 **Q** Okay. What about when the Solicitor read  
19 the facts of the case and you stated that those were  
20 the true facts that you did indeed try to assault  
21 your aunt. Do you remember that?

22 **A** No.

23 **Q** You don't?

24 **A** No.

25 **MR. MITCHELL:** Judge, I would note for the

1 record the transcript, on page 6 through 7, the  
2 Solicitor states the facts on the record and the  
3 defendant agrees with the assessment of the  
4 facts. Court's indulgence, Your Honor.

5 **THE COURT:** Certainly.

6 **MR. MITCHELL:** That's all the questions I  
7 have for him, Your Honor.

8 **THE COURT:** Okay. Anything else?

9 **MR. ARIAIL:** No redirect, Your Honor.

10 **THE COURT:** All right, sir. You can step  
11 down.

12 **MR. ARIAIL:** Your Honor, I would call  
13 Ms. Baxley as our next witness.

14 **THE COURT:** All right.

15 **PARKER BAXLEY**

16 having first been duly sworn, testifies as follows:

17 **THE CLERK:** Thank you. Please state your  
18 full name for the record.

19 **THE WITNESS:** Parker Baxley McClain.

20 **DIRECT EXAMINATION**

21 **BY MR. ARIAIL:**

22 **Q** Hey, Parker. How are you doing today?

23 **A** I'm doing well.

24 **Q** Let me take you back, in regards to  
25 Mr. Whitlock's case. You represented him on these

1 charges that we've been discussing here today,  
2 correct?

3       **A**    I did, yes, sir.

4       **Q**    Okay. Now, as part of this -- I want to go  
5 back. What information do you have about any  
6 discussions you had with him about the discovery in  
7 the case? Do you have any notes?

8       **A**    About the discovery?

9       **Q**    Yeah.

10       **A**    Oh my goodness. We went over his discovery  
11 -- I'm going to back this up just a little bit so I  
12 can see my notes here -- my notes reflect at least  
13 three different jail visits and more phone calls than  
14 I can possibly count where we discussed all of his  
15 discovery. I went over it in detail. In fact, I,  
16 specifically, remember one time when we were going  
17 over it, he kind of fixated on the victim's statement  
18 and I had to, kind of, clap my hands a little bit to,  
19 kind of, bring him out of that because he seemed to  
20 be fixating on the sexual part of what had happened  
21 in there.

22               I did ask him several times if he wanted a  
23 copy of it, because sometimes he would call and say,  
24 "I want a copy of my motion"; and then he would call  
25 the next day and say, "No, I don't want to copy of my

1 motion. I don't want to have that with me in the  
2 jail."

3 Q Okay.

4 A We did discuss the consequences sometimes,  
5 so to speak, of having this type of information loose  
6 at the jail and whether or not that would be good for  
7 his personal safety. He, ultimately, decided he did  
8 not want a copy of it, but we did review it many  
9 times.

10 Q Okay. So he was aware, and I know there was  
11 a statement in the discovery, of the victim of  
12 exactly what happened; is that correct?

13 A He was absolutely aware of it and, I  
14 believe, may have given a confession to the police,  
15 verbally.

16 Q Correct. As part of that, you believe he  
17 understood and knew what was going on in his case?

18 A Absolutely. He's not wrong that he has some  
19 mental health issues ---

20 Q Okay.

21 A --- but I, 100 percent, believe and still  
22 to this day believe he understood exactly what he was  
23 doing.

24 Q Okay. Do you think there was anything that,  
25 I guess, created any concern for you that he needed a

1 mental evaluation or any competency issues?

2       **A**     Early on in the case, when it became  
3 apparent that Mr. Whitlock did have some mental  
4 health issues, I did staff this case with John  
5 Mauldin and Chris Scalzo, from my office, to  
6 determine if they thought I should just send him for  
7 an evaluation. I never had an inkling that he was not  
8 competent.

9       **Q**     Okay.

10       **A**     He knew who I was. He knew what the judge's  
11 role was. He knew who the prosecutor was and what her  
12 role was. He understood the difference between  
13 pleading guilty and a jury trial. In fact, he  
14 demanded to plead guilty as fast as possible, over  
15 and over and over again. I kind of weighed that  
16 against his mental health issues.

17               We, ultimately, came to the decision that  
18 you could be both mentally ill and competent.  
19 Certainly, those aren't mutually exclusive concepts.  
20 He's not wrong. He does need some mental health  
21 treatment. Unfortunately, the offense that he  
22 committed just did not afford him that opportunity  
23 any longer outside of SCDC.

24       **Q**     Okay. And he was aware that if he went to  
25 trial, there was a possibility of life without

1 parole?

2           **A**     There was a guarantee of life without  
3 parole. His case was already in the LWOP committee. I  
4 approached the prosecutor at his request. He said,  
5 "Could I just plead guilty straight up? I will take  
6 30, if they won't give me life." So I went to  
7 Solicitor Sustakovitch with that information. She was  
8 very hesitant to do it, due to his record. He only  
9 made it nine days between being released from SCDC  
10 and when this offense happened with his aunt.

11           **Q**     Right.

12           **A**     It took a couple of months for her to agree  
13 to even approach the LWOP committee with a resolution  
14 other than life. When she finally did it, he was  
15 absolutely on board with it.

16           **Q**     Not only was it a 30-year sentence, it was  
17 a negotiated plea, too?

18           **A**     Absolutely.

19           **Q**     You indicated he was on board with that and  
20 that's why he wanted to go forward with this?

21           **A**     Yes, sir. I got probably five or six  
22 letters that he and I sent back and forth at the jail  
23 where he would ask questions about, "Well, can I get  
24 mental health treatment? That's what my family  
25 wants." He's not wrong about that.

1           The victim in this case actually wanted him  
2 to be committed to Marshall Pickens, and not SCDC.  
3 His family understood that he had a history of this  
4 behavior and they wanted to see him get help, and not  
5 further imprisonment.

6           **Q**    Right.

7           **A**    Again, that's not the victim's call.

8           **Q**    Right.

9           **A**    And I have multiple letters where I  
10 explained that to them.

11          **Q**    Right. And I read the victim's statement in  
12 regards to this. It said, from what I understood --  
13 tell me if there's anything different -- it said that  
14 she would not press charges if they would not let him  
15 out of Patrick B. Harris. Basically, she wanted him  
16 confined somewhere to get that mental, I guess,  
17 health treatment that he needed; not just if I go and  
18 get some treatment and I'm let out. She was concerned  
19 about him getting out?

20          **A**    Exactly. Again, I may be remembering  
21 incorrectly. I feel like I spoke to her at one point,  
22 but I may not have. I don't want to say that for  
23 sure. I know that I spoke with Mr. Billy Ray, his  
24 brother, and they all communicated to me that they  
25 did not want him lose on the streets, but they

1 didn't, necessarily, feel like he needed to go to  
2 prison either.

3       **Q**     Okay. So I mean, I guess what I'm trying to  
4 make sure is that there's nothing from the victim  
5 that you heard that said, "Well, as long as he goes  
6 to Patrick B. Harris and gets treatment, then I'm  
7 fine with that?"

8       **A**     Absolutely not. In fact, she met with the  
9 prosecutor and agreed to come to court and testify in  
10 accordance with her original statement if we had a  
11 trial.

12       **Q**     Was there anything outside of her or any  
13 other witnesses or any information that could help  
14 you defend him?

15       **A**     You know, the only thing that may have been  
16 of assistance, if the prosecutor hadn't agreed to --  
17 if we hadn't had a negotiated plea, I would have  
18 gotten all of his SCDC mental health records and  
19 probably had somebody, like Dr. Bodtorf, take a look  
20 at him. But he's already on the sex offender  
21 registry, so that wasn't an issue that we were  
22 fighting. It was very clear that he was guilty of  
23 this offense. It was very clear that insanity wasn't  
24 an appropriate offense and it was very clear that he  
25 was competent. Once the solicitor agreed to the

1 negotiated plea and Mr. Whitlock readily accepted it,  
2 I opted not to go that route.

3 **MR. ARIAIL:** Your Honor, I have no further  
4 questions.

5 **THE COURT:** All right. Any questions for  
6 this witness?

7 **MR. MITCHELL:** Just briefly, Your Honor.

8 **THE COURT:** Yes.

9 **CROSS-EXAMINATION**

10 **BY MR. MITCHELL:**

11 **Q** Good morning, Ms. Parker. How are you?

12 **A** Good morning.

13 **Q** Let me ask you a few questions with regards  
14 to the competency allegation. I know we probably  
15 touched on it during direct. Just for the records  
16 sake ---

17 **A** Sure.

18 **Q** --- during your course of representation,  
19 did the applicant appear to comprehend everything  
20 that you were saying to him?

21 **A** The only thing -- yes. The short answer is  
22 yes. The only issue, we had some difficulty getting  
23 him to accept -- I'm not going to say understand  
24 because I think he understood it. He didn't want to  
25 accept it -- was that a suspended sentence was not

1 going to happen. As soon as he understood that, it  
2 was get me into court as fast as possible, I'm ready  
3 to go back to prison.

4 Q Did he seem to understand the evidence in  
5 the case?

6 A He, absolutely, understood the evidence in  
7 the case and understood it to the point that he  
8 realized having it with him in the county jail was  
9 probably not a good idea for his personal safety.

10 Q Was it fair to say that he would have been  
11 able to help you assist in his defense, had he wanted  
12 to go to trial?

13 A He did help me. He gave me his brother's  
14 phone number. He gave me his aunt's contact  
15 information. He was definitely able to assist me and  
16 did assist me.

17 Q Let me ask you, during the course of this  
18 year or last year, have you referred anybody to  
19 receive a mental health evaluation?

20 A I am on my 14th person being evaluated this  
21 calendar year. It's definitely not something I'm  
22 hesitant to pull the trigger on, if it's necessary.

23 MR. MITCHELL: That's all the questions I  
24 have for her, Your Honor.

25 THE COURT: All right.

1           **MR. ARIAIL:**   Nothing further, Your Honor.

2           **THE COURT:**   All right, ma'am. You can step  
3           down.

4           **MS. MCCLAIN:**   Thank you, Judge.

5           **MR. ARIAIL:**   That's all the witnesses we  
6           have, Your Honor.

7           **THE COURT:**   All right. Anything from the  
8           State? Any further -- anything further?

9           **MR. MITCHELL:**   No additional witnesses.

10          **THE COURT:**   All right, then.

11           Well, Mr. Whitlock, I'm going to take this  
12           matter under advisement. I should be issuing a  
13           decision fairly shortly in it, but I want to  
14           take a look at a few things before I issue a  
15           decision. All right? Good luck to you.

16           Thank you.

17

18           (Proceedings conclude at approximately

19           11:04 a.m.)

20

21

22

23

CERTIFICATE

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

I, the undersigned, Teresa B. Johnson, 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 all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville, South Carolina, on this 22nd day of August, 2018.

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

*Teresa B Johnson*

Circuit Court Reporter



intent to commit criminal sexual conduct (2016-GS-23-4432). Parker A. Baxley, Esquire represented Applicant. Assistant Solicitor Christine K. Sustakovitch, Esquire prosecuted the case. On July 19, 2016, Applicant pleaded guilty as indicted to all charges before the Honorable Edward W. Miller. Pursuant to a negotiated sentence, Judge Miller sentenced Applicant to imprisonment for concurrent terms of thirty years each for kidnapping and assault with intent to commit criminal sexual conduct. Applicant did not appeal his conviction or sentence.

### **FACTUAL HISTORY**

Applicant was released from prison in October of 2015. Two weeks after his release he went to his aunt's house, the victim in this case, and tried to rape her. His aunt was almost seventy years old at the time. Applicant knocked on the victim's door and she came to the door. He asked if he could come in and she said yes. The victim stated that they were in the kitchen for about an hour talking when Applicant began to act funny while he was looking through a family album. Applicant began scratching his arms strangely and the victim went and gave him some lotion to put on his arms. At that time, Applicant pulled out a knife and showed it to the victim, he then dropped it and grabbed her. Applicant then ripped her robe off and began kissing his aunt. They fell to the floor and the victim fought him, trying to grab the knife that was beside her but the victim had too tight a grasp on her wrists. Applicant then pulled her into the bedroom, ripped her pajama top open, then started touching her breasts. She fell and Applicant then tried to pull her pants off. At this point the victim pretended to be passed out. At that point Applicant seemed to, "come to his senses" and the assault stopped. At that point his aunt took him to a halfway house. Applicant apologized on the way to the halfway house. (GP. Tr. 7).

### ALLEGATIONS

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

1. "Due Process Violation" and
2. "Ineffective Assistance of Counsel," in that:
  - a. "Failure to investigate;"
  - b. "Abandonment;"
  - c. "had discovery with a physc Doctors (sic) order for me to go to Patrick B. Harris and she refused to give me a mental health evaluation when she had Doctor's name and order for a bed to a mental hospital;"
  - d. "In motion of discovery, said that I was placed in Greenville Memorial Hospital under the orders of Doctor Staener where I would be held waiting on a (sic) open bed at Patrick B. Harris mental hospital;"
  - e. "Also in motion cousin Tracy Worthy stated I've been in an out since about age 9 for these type of charges and that I have mental health issues;"
  - f. "Also in motion – victim stated that if I get mental health treatment she would not press charges;"
  - g. "Also on the crime scene investigation report that my brother comes picks me up and takes me to a hospital for psychiatric evaluation;"
  - h. "I informed my public defender 'Parker Ann Baxley' I had mental health problems and needed mental health treatment[;] she refused and I told her I had mental health problems all my life and had a major head surgery when I was 6 months old. . . Solicitor to Judge Miller at plea[;] victim request[ed] I get mental treatment and I told Judge Miller I was getting Haldol [for] mental health problems

### SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTARY HEARING

#### Applicant's Testimony

Applicant testified he remembered "bits and pieces" of his case. He testified Plea Counsel told him he would get life in prison if he did not plead guilty to the charges. Applicant testified he did not get all the evidence concerning his case until after he had pled guilty. He testified he saw plea counsel twice in person but talked to her several times on the phone. Applicant testified he was on a lot of medication at the time and did not understand what was happening. He testified he was hearing voices had hallucinations, and was cutting himself while he was in the detention center. Applicant testified he was put in a strip cell because he was cutting himself and

was on mental health medications and also receiving a Haldol shot every thirty days. He testified he told Plea Counsel about his mental health problems but she said she did not think he needed to be evaluated. Applicant testified Plea Counsel kept telling him he would get life in prison if he did not plead guilty. He testified Plea Counsel was ineffective for not giving or going over discovery with him. He testified he quit school in the fifth grade and he has trouble understanding things. Applicant testified the victim, his aunt said she just wanted him to get mental health treatment not go to jail. He testified he thought he was going to the hospital for help for mental issues but did not go.

On cross-examination Applicant testified prior to being charged with this crime he had been in prison for almost thirty years for a previous conviction of criminal sexual conduct. He testified he pled guilty to his prior conviction. Applicant testified he was getting mental health medications while he was incarcerated previously. He again testified he met with Plea Counsel twice in person but talked to her several times on the phone. Applicant testified Plea Counsel kept telling him to plead guilty to avoid a sentence of life in prison. He testified Plea Counsel discussed some of the evidence with him but he did not remember if she discussed any defenses with him. Applicant testified he told the plea court he was on medication but he wanted to go forward with the plea. He testified he remember telling the plea court he was satisfied with Plea Counsel but did not recall agreeing with the facts presented at his guilty plea.

#### Plea Counsel's Testimony

Plea Counsel testified she went over the discovery in Applicant's case with him in detail, including the victim's statement. She testified she made three different jail visits and had numerous phone calls with Applicant. Plea Counsel testified Applicant went back and forth several times if he wanted a copy of discovery due to concerns over his personal safety in prison.

She testified Applicant also gave a verbal statement regarding the charges to law enforcement. Plea Counsel testified Applicant "absolutely one hundred percent" understood what he was doing. She testified she did know about Applicant's mental health history so she brought in two more senior attorneys in her office to see if Applicant needed to be evaluated. Plea Counsel testified she never had any inkling Applicant was not competent. She testified Applicant demanded he be able to plead guilty as soon as possible. Plea Counsel testified Applicant informed her he would plead guilty to thirty years if life in prison was off the table. She testified Applicant committed this crime nine days after he was released from the South Carolina Department of Corrections (SCDC). Plea Counsel testified the state agreed to a negotiated plea offer of thirty years. She testified the victim wanted Applicant to be committed to a mental health facility and not prison. Plea Counsel testified the victim would not press charges if Applicant was confined in a mental health facility and never let out. She testified she thought she spoke with the victim in this case and definitely spoke with Applicant's brother regarding Applicant's case. Plea Counsel testified the victim met with the state and would have testified at trial. She testified if there had been no negotiated plea and the case had went to trial, she would have gotten Applicant's SCDC mental health records.

On cross-examination, Plea Counsel testified Applicant was competent and understood all of their conversations. She testified Applicant understood the evidence in his case and did not want the discovery with him because of concerns over his personal safety. Plea Counsel testified she had several of her clients evaluated this calendar year and definitely was not hesitant to get a client evaluated if she believed they needed to be.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has had the opportunity to observe the witnesses presented at the hearing, and can weigh their testimony and credibility accordingly. These credibility findings have been applied to the Court's findings and conclusions set forth below. Below are the findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017).

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 443, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove that counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Id. (quoting Strickland v. Washington, 466 at 688). Second, counsel's deficient performance must have prejudiced the

applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

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)).

#### **Failure to Investigate**

Applicant failed to present any evidence in support of this allegation. To show ineffective assistance in this regard, Applicant must present evidence to show what counsel could have discovered had he more fully investigated. Jackson v. State, 329 S.C. 345, 354, 495 S.E.2d 768, 772 (1998) (“Respondent failed to present any evidence of what counsel could have discovered or what other defenses respondent would have requested counsel pursue had counsel more fully prepared for the trial.”). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). Applicant has failed to show what beneficial information could have been discovered had Counsel done more investigation. Even so, Counsel testified credibly that not only did she review all of the discovery, she spoke to the

victim in the case. This Court finds Counsel's investigation was beyond reasonable. Therefore, Applicant has failed to meet his burden to prove Counsel was ineffective. This allegation is denied and dismissed with prejudice.

**Failing to request mental evaluation**

Applicant alleges Plea Counsel should have had him evaluated as he was mentally incompetent at the time of his guilty plea. In a PCR action, a petitioner has the burden of proving by a preponderance of the evidence that he was incompetent at the time of his guilty plea. Matthews v. State, 358 S.C. 456, 458, 596 S.E.2d 49, 50 (2004) (quoting Jeter v. State, 308 S.C. 230, 232, 417 S.E.2d 594, 595-596 (1992)). Applicant testified he was on a lot of medication at the time of his guilty plea and did not understand what was happening. He testified he was hearing voices had hallucinations, and was cutting himself while he was in the detention center. Applicant testified he was put in a strip cell because he was cutting himself and was on mental health medications and also receiving a Haldol shot every thirty days. Plea Counsel testified Applicant "absolutely one hundred percent" understood what he was doing. She testified she did know about Applicant's mental health history so she brought in two more senior attorneys in her office to see if Applicant needed to be evaluated. Plea Counsel testified she never had any inkling Applicant was not competent.

This Court finds Applicant has failed to meet his burden of proving Plea Counsel was ineffective for failing to request a mental evaluation. Furthermore, this Court finds Plea Counsel's testimony on the matter credible. This Court finds Applicant was not evaluated as part of this PCR proceeding nor did he introduce any records to establish that he currently or previously lacked sufficient competency to stand trial. This Court finds Applicant has offered no valid reason to be allowed to depart from the truth of the statements made under oath during his

guilty plea. See Crawford v. United States, 519 F.2d 347 (4th Cir.1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976) (Statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements.). Furthermore, the record from Applicant's guilty plea, as well as the way Applicant testified at the PCR hearing, both show Applicant is coherent and fully able to effectively communicate. This Court finds Applicant did not meet his burden to prove he was incompetent to stand trial at the time of his plea. Therefore, this allegation is denied and dismissed with prejudice.

#### **Due Process Violation**

Applicant alleges that he was denied due process of law. However, Applicant failed to set forth with specificity the grounds upon which these constitutional violations were based or present any evidence of a specific violation. After a review of the record, this Court finds this allegation is without merit. Accordingly, this allegation is denied and dismissed with prejudice.

#### **CONCLUSION**

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

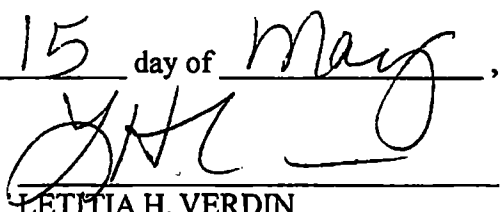
This Court notifies Applicant that he must file and serve a notice of appeal within thirty (30) days from receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. An applicant has a right to an appellate counsel's assistance when they are seeking review of the denial of PCR. Austin v. State, 305 S.C. 453 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a Notice

of Appeal on the Applicant's behalf. See Rule 71.1 (g), SCRCP. Reffer to Rule 243 of the South Carolina Appellate Court Rules for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED THAT:**

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

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



LETITIA H. VERDIN  
Presiding Judge  
Thirteenth Judicial Circuit

Greenville, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
KIDNAPPING

At a Court of General Sessions, convened on **MAY 24 2016** the Grand Jurors of Greenville

County present upon their oath:

That EDWARD LEE WHITLOCK, JR. did in Greenville County, on or about the 10th day of November, 2015, unlawfully seize, abduct, confine, inveigle, decoy or carry away S.M. , without the authority of law. This is in violation of §16-03-0910 of the South Carolina Code of Laws (1976) as amended.

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

*[Handwritten Signature]*  
SOLICITOR BAR # 70325

004431

DOCKET NO. 2016-GS-23-  
CLK

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May TERM 2016

THE STATE

vs.

EDWARD LEE WHITLOCK, JR.



*Boyley*

Indictment for

0095 ✓

KIDNAPPING

VIOLATION § 16-03-0910

ENTERED  
ACCT. 12/1

WITNESSES

Lorraine Henderson *LMS 5/24/16*

Greenville County Sheriffs Office

11/14/2015

ARREST WARRANT NUMBER

2015A2330209969

ACTION OF GRAND JURY

~~TRUE BILL~~  
*Thomas J. Pro...*

FOREMAN GRAND JURY

*Foreperson of Grand Jury*

VERDICT

*Foreperson of Petit Jury*

Date:

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )

INDICTMENT FOR  
ASSAULT WITH INTENT TO COMMIT CRIMINAL SEXUAL  
CONDUCT

**MAY 24 2016**

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That EDWARD LEE WHITLOCK did in Greenville County, on or about the 10th day of November, 2015, commit an assault upon S.M. , with the intent to commit criminal sexual conduct and was accompanied by one or more of the following circumstances, to wit: Use of a deadly weapon. This is in violation of § 16-03-0656 of the South Carolina Code of Laws (1976) as amended.

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

*Aronis Sustanovitch*  
SOLICITOR BAR # 70325

**WITNESSES**

Lorraine Henderson

*MS 5/24/16*

Greenville County Sheriffs Office

11/14/2015

**ARREST WARRANT NUMBER**

2015A2330209967

**ACTION OF GRAND JURY**

**TRUE BILL**

*Thomas J. Pugh*

**FOREMAN GRAND JURY**

*Foreperson of Grand Jury*

**VERDICT**

*Foreperson of Petit Jury*

*Date:*

DOCKET NO. 2016-GS-23-  
CLK

004432

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

May

TERM 2016

THE STATE

vs.

EDWARD LEE WHITLOCK

Indictment for

0253

**ASSAULT WITH INTENT TO COMMIT CRIMINAL  
SEXUAL CONDUCT**

VIOLATION § 16-03-0656

**ENTERED  
ACCT.**

STATE OF SOUTH CAROLINA )  
 COUNTY OF Greenville )  
 STATE VS. )  
 Edward Lee Whitlock Jr )  
 AKA: )  
 Race: WHITE Sex: M Age: 45 )  
 DOB: [REDACTED]-1970 SS#: [REDACTED] )  
 Address: [REDACTED] )  
 City, State, Zip: Greenville, SC 29611 )  
 DL#: SID#: )

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS2304431  
 A/W#: 2015A2330209969  
 Date of Offense: 11/10/2015  
 S.C. Code §: 16-03-0910  
 CDR Code #: 0095

*Jain*

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  
 TO: Kidnapping (gs)

CONVICTED OF or  PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095  
 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. *XSW* (defendant's initials)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: *Susakovitch* 70325 SC Bar# *Edward Whitlock Jr* Defendant *[Signature]* Attorney for Defendant *[Signature]* SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 30 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. *248 days*

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

SPECIAL CONDITIONS:

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

PTUP \_\_\_\_\_ days/hours Public Service Employment

Recipient: \_\_\_\_\_

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

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: \_\_\_\_\_

TOTAL \$ 138.75

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

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

Presiding Judge *[Signature]*  
 Judge Code: 2130  
 Sentence Date: 7-19-16

STATE OF SOUTH CAROLINA

COUNTY OF Greenville
STATE VS.

Edward Lee Whitlock

AKA:

Race: WHITE Sex: M Age: 45

DOB: 08-26-1970 SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Greenville, SC 29611

DL#: SID#:

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Sex, Assault W/Intent To Commit Crim Sex

IN THE COURT OF GENERAL SESSIONS

347755

Just

INDICTMENT/CASE#: 2016GS2304432

A/W#: 2015A2330209967

Date of Offense: 11/10/2015

S.C. Code § : 16-03-0656, 0652(

CDR Code #: 0253

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-03-0656, 0652( of the S.C. Code of Laws, bearing CDR Code # 0253

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

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

ATTEST: [Signature] 70325 SC Bar# [Signature] Defendant [Signature] Attorney for Defendant [Signature] SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 30 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. 248 DAC

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

SPECIAL CONDITIONS:

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

Recipient:

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

TOTAL \$ 120.75

Clerk of Court/ Deputy Clerk Paul B. Wickens

Court Reporter: [Signature]

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

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

Presiding Judge [Signature]

Judge Code: 2130

Sentence Date: 7-19-16