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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Greenville County

Honorable Frank R. Addy, Circuit Court Judge

JED D. WHEELER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001073

APPENDIX

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STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) 2016-GS-23-04559 (Ankrum)
 COUNTY OF GREENVILLE) 2016-GS-23-00601 (Wheeler)
)
)
)
)
)

STATE OF SOUTH CAROLINA,
 PLAINTIFF,

vs.

TRANSCRIPT OF RECORD

CHARLES E. ANKRUM;
 JED DOUGLAS WHEELER,
 DEFENDANTS.

September 1, 2016
 Greenville, South Carolina

B E F O R E:

THE HONORABLE PERRY H. GRAVELY

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

STANFORD OVERBY, ESQ.
 Attorney for the Plaintiff

JOHN KENNETH ERWIN, JR., ESQ.
 Attorney for Defendant Ankrum

RANDALL LEE CHAMBERS, ESQ.
 Attorney for Defendant Wheeler

CHERYL A. SMITH
 Circuit Court Reporter

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EXHIBITS

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

P R O C E E D I N G S

(WHEREUPON, proceedings commenced at 2:36 p.m.)

THE CLERK: Your Honor, this is Case Number
2016-GS-23-4559, Charles Ankrum, indictment for burglary
first degree, pleading to burglary second degree. It is
a waiver.

2016-GS-23-601, Jed Douglas Wheeler, indicted for
bank robbery, pleading to the same. It is a waiver as
well.

Would you raise your right hands, please.

WHEREUPON,

CHARLES E. ANKRUM and JED DOUGLAS WHEELER

After having been duly sworn, testified as follows:

THE COURT: All right. Are you Charles E. Ankrum?

DEFENDANT ANKRUM: Yes, sir.

THE COURT: How old are you?

DEFENDANT ANKRUM: 21, sir.

THE COURT: And how far did you go in school?

DEFENDANT ANKRUM: Eighth grade, sir.

THE COURT: All right. And are you Jed Douglas
Wheeler?

DEFENDANT WHEELER: Yes, Your Honor.

THE COURT: And how old are you?

DEFENDANT WHEELER: 34.

1 THE COURT: And how far did you go in school?

2 DEFENDANT WHEELER: Twelfth grade.

3 THE COURT: Okay. Gentlemen, are either of you
4 under the influence of any alcohol, drugs or medication
5 of any type which would make you impaired today?
6 Mr. Ankrum? ✓

7 DEFENDANT ANKRUM: Can you repeat that, sir?

8 THE COURT: All right. Are you under the influence
9 of any drugs or alcohol or medication which would make
10 you impaired this afternoon?

11 DEFENDANT ANKRUM: No, sir.

12 THE COURT: Okay. Are you on some medication?

13 DEFENDANT ANKRUM: Yes, sir.

14 THE COURT: What kind of medication are you on?

15 DEFENDANT ANKRUM: Synthroid. It's high blood
16 pressure med, sir.

17 THE COURT: Okay.

18 DEFENDANT ANKRUM: That's it.

19 THE COURT: All right. Are you doing that as
20 prescribed by your doctor?

21 DEFENDANT ANKRUM: Yes, sir.

22 THE COURT: And does it keep you from understanding
23 what's going on or ---

24 DEFENDANT ANKRUM: No, sir.

25 THE COURT: --- understanding my questions or be

1 able to communicate with me?

2 DEFENDANT ANKRUM: Yes, sir.

3 THE COURT: And, Mr. Erwin, do you have any issues
4 about that?

5 MR. ERWIN: I have no issues about his competency,
6 Your Honor.

7 THE COURT: All right. Mr. Wheeler, how about you?
8 Are you under the influence of any alcohol, drugs or
9 medication?

10 DEFENDANT WHEELER: No, Your Honor.

11 THE COURT: All right. To both of you, do either of
12 you have any health or mental issues which would keep you
13 from understanding what's going on here today?
14 Mr. Ankrum?

15 DEFENDANT ANKRUM: No, sir.

16 THE COURT: All right. And Mr. Wheeler?

17 DEFENDANT WHEELER: No, Your Honor.

18 THE COURT: All right. Okay. Have both of you had
19 sufficient times to talk with your clients -- I'm sorry.
20 Both of you had time to talk with your attorneys about
21 your cases? Have they answered all the questions you had
22 and done all the investigation which you felt was
23 appropriate? Mr. Ankrum?

24 DEFENDANT ANKRUM: Yes, sir.

25 THE COURT: And Mr. Wheeler?

1 DEFENDANT WHEELER: Yes, Your Honor.

2 THE COURT: Are you completely satisfied with the
3 representation that your attorney has provided,
4 Mr. Ankrum?

5 DEFENDANT ANKRUM: Yes, sir.

6 THE COURT: And Mr. Wheeler?

7 DEFENDANT WHEELER: Yes, Your Honor.

8 THE COURT: Do you have any complaints against your
9 attorney or anybody in his office, Mr. Ankrum?

10 DEFENDANT ANKRUM: No, sir.

11 THE COURT: And Mr. Wheeler?

12 DEFENDANT WHEELER: No, Your Honor.

13 THE COURT: All right. Mr. Ankrum, you're here for
14 burglary second degree, violent. It's been designated as
15 violent and serious, carries up to 15 years. Do you
16 understand that charge? Do you understand the charge ---

17 DEFENDANT ANKRUM: Not really, sir.

18 THE COURT: -- of burglary second degree? You
19 realize that's what you're being charged with?

20 DEFENDANT ANKRUM: No, sir.

21 THE COURT: Okay. Do you understand that charge?

22 DEFENDANT ANKRUM: Yes, sir.

23 THE COURT: And you -- I mean, do you have some
24 questions about it that you -- let's see. According to
25 the indictment, that you attempted to enter the room of a

1 David Lee Jones in Town Suites with intent to commit a
2 crime. You realize that's what burglary first -- that's
3 burglary second degree violent? It's been reduced to
4 that. So do you understand the charge?

5 DEFENDANT ANKRUM: Yes, sir.

6 THE COURT: All right. And how do you wish to
7 plead: guilty or not guilty?

8 DEFENDANT ANKRUM: I plead -- I plead -- really,
9 that one, Your Honor, I don't -- I don't really remember
10 that one, sir. Honestly, I don't.

11 THE COURT: Okay. All right. What do you want --
12 I'm just trying to figure out, make sure you understand
13 the charge here. It's my understanding that you wish to
14 enter a plea, and I just want to make sure you understand
15 what you're being charged with. And it's burglary second
16 degree back on March 19, 2016.

17 DEFENDANT ANKRUM: Yes, sir.

18 THE COURT: Okay. So do you understand the charge?

19 DEFENDANT ANKRUM: Yes, sir.

20 THE COURT: And how do you wish to plead?

21 DEFENDANT ANKRUM: Guilty, sir.

22 THE COURT: All right. And you understand. Any
23 questions?

24 DEFENDANT ANKRUM: Yes, sir.

25 THE COURT: All right. Do you need any more time to

1 talk to your attorney about it?

2 DEFENDANT ANKRUM: No, sir.

3 THE COURT: And, Mr. Wheeler, you've got a charge of
4 bank robbery which carries up to 30 years. Do you
5 understand that charge?

6 DEFENDANT WHEELER: Yes, Your Honor.

7 THE COURT: And how do you wish to plead?

8 DEFENDANT WHEELER: Guilty.

9 THE COURT: All right. Gentlemen, you realize that
10 even though the State may have a recommendation, that I'm
11 not bound by that recommendation, and that I could
12 sentence you to the maximum amount, which in your case,
13 Mr. Ankrum, is 15 years, and, Mr. Wheeler, yours is
14 30 years. Do you understand that, Mr. Ankrum?

15 DEFENDANT ANKRUM: Yes, sir.

16 THE COURT: And Mr. Wheeler?

17 DEFENDANT WHEELER: Yes, Your Honor.

18 THE COURT: All right. Has anybody promised you
19 anything or threatened you to plead guilty, Mr. Ankrum?

20 DEFENDANT ANKRUM: No, sir.

21 THE COURT: And Mr. Wheeler?

22 DEFENDANT WHEELER: No, Your Honor.

23 THE COURT: Are you pleading guilty freely and
24 voluntarily, Mr. Ankrum?

25 DEFENDANT ANKRUM: Yes, sir.

1 THE COURT: And Mr. Wheeler?

2 DEFENDANT WHEELER: Yes, Your Honor.

3 THE COURT: All right. These matters have not been
4 sent to the grand jury. And both of you realize, and
5 you've indicated that you waive this right, but you have
6 a right to have your cases presented to the grand jury,
7 and a grand jury would look at these and determine
8 whether there was sufficient evidence for the case to go
9 forward. Do you understand that right and you wish to
10 waive that right and go forward with your plea,
11 Mr. Ankrum?

12 DEFENDANT ANKRUM: Yes, sir.

13 THE COURT: Okay. And Mr. Wheeler?

14 DEFENDANT WHEELER: Yes, Your Honor.

15 THE COURT: All right. You also have certain
16 constitutional rights that you're giving up by pleading
17 guilty. I want to go through those with you. You have a
18 right to a jury trial, and that's where 12 people would
19 hear your case and determine whether you were innocent or
20 guilty, okay? You also have the right to make the State
21 prove its case against you beyond a reasonable doubt, and
22 you're presumed innocent up to that point. You also have
23 the right to confront all the witnesses that the State
24 has against you, you have a right to examine the evidence
25 they have against you, and finally, you have a right to

1 remain silent at every stage of the proceedings. You
2 cannot be made to testify, and that cannot be used
3 against you.

4 Do you understand each of these rights and you
5 realize you're giving them up, you're waiving these
6 rights, Mr. Ankrum?

7 DEFENDANT ANKRUM: Yes, sir.

8 THE COURT: And Mr. Wheeler?

9 DEFENDANT WHEELER: Yes, Your Honor.

10 THE COURT: All right. You also have a right to
11 appeal your plea and the sentence, but you must do so in
12 writing and within ten days from today. Do you
13 understand that, Mr. Ankrum?

14 DEFENDANT ANKRUM: Yes, sir.

15 THE COURT: And Mr. Wheeler?

16 DEFENDANT WHEELER: Yes, Your Honor.

17 THE COURT: All right. Mr. Ankrum, your charge is
18 indicated as violent and serious, and Mr. Wheeler, yours
19 is considered serious. You realize that this designation
20 could -- has an effect on the percentage of your sentence
21 that you would actually serve. It would also affect your
22 eligibility for parole and other things. And by them
23 both being serious, you understand if you have three or
24 more serious charges, that it could -- you have another
25 -- it could make you eligible for life without parole in

1 the event that you had additional serious charges. Do
2 you understand that, Mr. Ankrum?

3 DEFENDANT ANKRUM: Yes, sir.

4 THE COURT: And Mr. Wheeler?

5 DEFENDANT WHEELER: Yes, Your Honor.

6 THE COURT: All right. Okay. As to Mr. Erwin and
7 Mr. Chambers, have y'all had sufficient time to discuss
8 this case -- these cases with your clients and any
9 defenses or issues that they may have? Mr. Erwin?

10 MR. ERWIN: I have.

11 THE COURT: And Mr. Chambers?

12 MR. CHAMBERS: I have, Your Honor.

13 THE COURT: All right. Have you also discussed with
14 them their rights? Do you believe they understand those
15 rights and have given those rights up freely and
16 voluntarily? Mr. Erwin?

17 MR. ERWIN: I have, and I do, Your Honor.

18 THE COURT: And Mr. Chambers?

19 MR. CHAMBERS: Yes, Your Honor.

20 THE COURT: All right. And Mr. Erwin, do you have
21 any issues with whether your client is competent or has
22 any issues with going forward with his plea?

23 MR. ERWIN: I believe that he is competent to plead.
24 I haven't had any concerns with his competency.

25 THE COURT: I mean, you've had numerous discussions

1 with him?

2 MR. ERWIN: Yes, sir.

3 THE COURT: And that's not a concern of yours?

4 Good.

5 MR. ERWIN: No, sir. It's not.

6 THE COURT: Okay. All right. Mr. Ankrum, if you
7 will, I'll listen to what the solicitor has to tell me
8 about your case, so listen to it and I'm going to ask you
9 if you agree with those facts.

10 MR. OVERBY: May it please the Court, Your Honor.

11 On or about 3/19/2016, this defendant knocked on the
12 victim's door on Mauldin Road in Greenville County. The
13 victim is the security guard at Quality Inn and he lives
14 on the premises. The victim opened the door and saw this
15 defendant pointing a gun at him and attempting to come
16 into the room. The victim tried to close the door, and
17 the defendant began pushing against it. The victim was
18 able to close and lock the door. After the defendant was
19 locked out of the room, he broke the window to the room
20 but did not enter the room.

21 Your Honor, he has served 157 days in jail. There
22 is no recommendation as to sentencing, and he does have a
23 prior record. And the State has complied with the
24 Victims Rights Act.

25 THE COURT: All right. The sentencing sheet does

1 have a recommendation on it that y'all have signed.

2 MR. ERWIN: I can explain that, Judge, when it's my
3 turn.

4 THE COURT: Okay. And I realize that this has been
5 reduced, but, I mean, if he never entered the place, is
6 it burglary or attempted burglary? I mean, don't you
7 have to actually enter the place to be a burglary?

8 MR. OVERBY: I don't believe so, Your Honor.

9 THE COURT: Okay.

10 MR. OVERBY: I think if you've got a -- I think as
11 long as you get the door open. He's knocked on the door.
12 He's trying to force in the door. I think that's an
13 entering under the law.

14 THE COURT: All right.

15 MR. ERWIN: I think maybe the facts as related were
16 not quite artfully put. He did cross the threshold ---

17 THE COURT: Okay.

18 MR. ERWIN: --- and he came to the door. It's that
19 he didn't enter. I think they meant on the second time
20 around.

21 MR. OVERBY: Correct. Correct, Your Honor.

22 THE COURT: I've got you. All right.

23 Mr. Ankrum, you heard those facts. Is that what
24 happened?

25 DEFENDANT ANKRUM: Yes, sir.

1 THE COURT: And you agree with those facts and still
2 wish to plead guilty?

3 DEFENDANT ANKRUM: (No answer.)

4 THE COURT: You agree with those facts and you still
5 wish to plead guilty?

6 DEFENDANT ANKRUM: I don't ---

7 THE COURT: I mean, do you still wish to plead
8 guilty?

9 MR. ERWIN: Judge, if I may ---

10 THE COURT: Yes.

11 MR. ERWIN: --- I think I can kind of help here a
12 little bit. If I could sort of go into a little
13 background about what happened that night, I think it
14 might sort of come around to explain ---

15 THE COURT: Okay.

16 MR. ERWIN: --- what the issue is here.

17 Okay. Mr. Ankrum basically told me everything that
18 happened that night, if I could walk you through it. He
19 -- Mr. Ankrum was essentially homeless at the time, and
20 he was walking around in this area of Greenville. This
21 is very late at night. And he's walking around this area
22 of Greenville, and he's essentially begging. He's asking
23 people for money, right?

24 He comes upon this hotel, and he's asking people in
25 the hotel if they have any money. And someone invited

1 him into a hotel room to come inside for a while, which
2 he did. And he came in, and he was hanging out with
3 these folks that he did not know. And they got --
4 brought out a blunt, some marijuana to smoke, right? And
5 they pass it around the room. He smokes it. They told
6 him afterward that it was laced with PCP. He didn't know
7 what that was or what that was all about. He very soon
8 found out what that was all about because he went nuts
9 and completely lost it and then went out. They -- they
10 basically kicked him out of the room because he was
11 acting crazy.

12 And then he was on his own out there, and he went
13 berserk. And he was trying to get back inside somewhere,
14 and basically went to a couple of different places in
15 this building, eventually ending up at the residence on
16 the inn trying to get in any door that he could and ends
17 up, you know, trying to force his way into this room.

18 We've gone over the evidence and the witnesses that
19 they have against him, and he agrees that that is what
20 happened that night.

21 As far as the details, I think that he was a little
22 under the influence, and I don't think he quite remembers
23 exactly whether he went in through the window, whether he
24 went in through the door or any of that. It's kind of a
25 blur. I think that's why he's kind of unsure about how

1 to answer that question as whether he agrees with the
2 facts.

3 THE COURT: Okay.

4 MR. ERWIN: I don't know if this would be more
5 appropriate as an Alford plea. I was hoping we could get
6 through it otherwise, but ---

7 THE COURT: Let me ask it this way. Mr. Ankrum,
8 you've heard what the solicitor says what they're able to
9 prove. Do you believe that, based on your attorney's
10 investigation, that that's what happened and that's what
11 they'd be able to prove if they went to trial?

12 DEFENDANT ANKRUM: I know -- I know -- I know that
13 when I left the Super Lodge, I know that the guy end up
14 giving me a gun to -- or something, the BB gun.

15 THE COURT: All right. But based on what you've
16 heard, you still wish to plead guilty.

17 DEFENDANT ANKRUM: Yes, sir. Because I don't
18 remember all of it, sir.

19 THE COURT: Okay. Well, I'll accept your plea. I
20 find that it's been knowingly, intelligently and
21 voluntarily made with advice of competent legal counsel
22 with whom you've indicated you're satisfied with his
23 representation of you and that there's a substantial
24 factual basis for the plea.

25 Let me ask about prior record. Any?

1 MR. OVERBY: 2008 unlawful use of 9-1-1, and in
2 2015, shoplifting.

3 THE COURT: All right. Mr. Erwin, be glad to hear
4 from you.

5 MR. ERWIN: Thank you, Your Honor. I sort of gave
6 you our brief background on the facts here.

7 Also, he mentioned a BB gun. There was an attempted
8 armed robbery charge along with this originally, too,
9 because he did have a broken BB gun that he was carrying
10 with him. That came from the folks in the room. He did
11 not have that with him. But he understands that his
12 conduct that night was illegal, and he's here to take
13 responsibility for that.

14 I'll tell you why the sentencing sheet is checked
15 with a recommendation but we don't actually have one here
16 today. The original recommendation from the prosecutor
17 in this case was for him to be sentenced under the
18 Youthful Offender Act, which would be great, I think
19 would be an appropriate recommendation for this except
20 for the fact that he's pleading guilty to a burglary
21 second.

22 Under the Youthful Offender Act statute, a burglary
23 second is actually treated differently than any other
24 charge for some reason, and what -- instead of it being a
25 ten-month program followed by supervision, it is a

1 three-year, day-for-day sentence, and that would have
2 been the sentencing. Regardless of what Your Honor
3 wanted to give him, that's what he would get if you
4 sentenced him under the YOA for this charge. And I --
5 knowing what his background was and knowing the
6 circumstances of what happened that night, I just
7 personally did not feel that that was an appropriate
8 sentence, and I was trying to argue for something less
9 than that, for a recommendation of something less than
10 that.

11 I understand that we were originally dealing with an
12 armed robbery charge here and what he did that night was
13 dangerous and bad, and I understand why the solicitor who
14 was handling this case doesn't want to come off of the
15 burglary charge. But that's why we ultimately rejected
16 the recommendation because I don't think the sentence was
17 going to work out the way it was, the spirit of the
18 recommendation would have been.

19 So in the alternative, what I would ask, Judge, is
20 to consider getting Mr. Ankrum some inpatient treatment.
21 He has a drug problem. That's how he got himself in this
22 mess in the first place. He was literally walking the
23 streets trying to beg for money to buy some alcohol or
24 some drugs, and that's how he got himself in this mess.

25 I will tell you that the one hundred and some-odd

1 days that he served in jail have been particularly hard
2 on Mr. Ankrum. When I met him -- last saw him in jail
3 two or three weeks ago, he's since gotten them removed,
4 but he had stitches all down the side of his head and
5 black eyes. He did not go into jail like that, Your
6 Honor. He's having a hard time down there.

7 I would ask you to consider all of that when making
8 your decision here today, and would urge you to consider
9 a sentence that includes probation and some sort of
10 inpatient treatment for his alcohol and drug problem.

11 THE COURT: All right. Mr. Ankrum, anything you
12 want to tell me?

13 DEFENDANT ANKRUM: Yes, sir. I do have -- I admit I
14 do have a drug -- I do have a drug issue, sir. I do -- I
15 do want to change, sir. Like I do -- I've been talking
16 to my attorney and stuff. I've been like I do want to
17 change, sir. I don't want to end up in jail all my life,
18 sir. I do want to change. I do want to end up getting a
19 second chance like probation, like seven to eight -- like
20 seven to nine years if there's a way, by the grace of
21 God, sir, to give me another chance. Because when I'm
22 not on drugs, when I'm not hanging around nobody else,
23 I'm fine. Honestly, sir, I never did nothing like this
24 before, sir.

25 THE COURT: I mean, your criminal record was kind of

1 -- there wasn't a lot to it for something to start like
2 this.

3 DEFENDANT ANKRUM: Yes, sir. And I'm not going to
4 -- I'm not going to do this again, sir. Honestly, I
5 won't. By the grace of God, sir, please, sir. Thank
6 you.

7 THE COURT: I guess the thing I'm struggling with,
8 the fact that the actual charge, that is burglary second
9 violent. But I realize some of the concerns you
10 have, Mr. Erwin.

11 All right. Okay. The sentence of the Court is
12 going to be three years suspended on nine months with
13 credit for time served. So most of that will be R&A
14 then. So -- and then four years probation. And upon
15 completion of incarceration, hold for assessment for
16 substance abuse and mental health and complete
17 recommended treatment.

18 MR. ERWIN: Thank you, Your Honor.

19 THE COURT: All right. Good luck to you,
20 Mr. Ankrum.

21 DEFENDANT ANKRUM: God bless you, sir.

22 THE COURT: All right. Mr. Wheeler, we're going to
23 hear the facts on your case, so listen up.

24 MR. OVERBY: May it please the Court, Your Honor.

25 On or about October 13, 2015, this defendant entered the

1 Regions Bank in Simpsonville in Greenville county. The
2 defendant was wearing a dark shirt over his face. The
3 defendant demanded money from the teller. As the teller
4 was putting the money in a bag, she was able to slide a
5 dye pack in the bag. The defendant then left the bank
6 and took off his mask as he was leaving.

7 The teller and other employees were able to see that
8 he was a young white male. Subsequently, an individual
9 matching the description of the robber presented a \$50
10 bill to Spinx in order to buy alcohol. The police were
11 able to identify this defendant and arrested him.

12 During a recorded interview, the defendant confessed
13 to this bank robbery as well as a robbery that occurred
14 elsewhere.

15 Your Honor, the defendant has spent 321 days in
16 jail. There's a recommendation of ten years. The
17 defendant has no prior record. The State has complied
18 with the Victims Rights Act.

19 THE COURT: All right. Is that true, Mr. Wheeler,
20 what happened?

21 DEFENDANT WHEELER: Yes, Your Honor. I was under
22 the influence at the time, just something I was going
23 through. There was a dark, dark age in my life right
24 there for like six months. Out of character. Now I'm
25 just -- I'm -- I mean, I'm alive now, and I'm just hoping

1 to get a second chance here and move on.

2 THE COURT: But you agree with those facts and you
3 still wish to plead guilty.

4 DEFENDANT WHEELER: Yes, Your Honor.

5 THE COURT: All right. I'll accept your plea. I
6 find it's been knowingly and intelligently and
7 voluntarily made with the advice of competent legal
8 counsel with whom you've indicated you're satisfied with
9 his representation of you, that there's a substantial
10 factual basis for the plea.

11 Anything you want to tell me?

12 MR. CHAMBERS: No, Your Honor. I just respectfully
13 ask you to go along with the recommendation.

14 I will say that I -- I mean, I honestly don't know
15 him very well, but he doesn't seem like a bank robber to
16 me just in dealing with him. It does seem completely out
17 of character. But he has a similar charge in New
18 Hampshire that he's going to have to go back there and
19 answer to. I'm hoping somehow he can get it to all --
20 they can do it concurrently, but we'll see.

21 THE COURT: Just a regular old Jesse James, aren't
22 you?

23 All right. The sentence of the Court is ten years
24 with credit for time served.

25 MR. CHAMBERS: Thank you, Your Honor.

1 DEFENDANT WHEELER: Is it nonviolent?

2 MR. CHAMBERS: That is nonviolent.

3 THE COURT: But it is serious.

4 DEFENDANT WHEELER: Yes, it is.

5 (WHEREUPON, proceedings concluded at 2:57 p.m.)

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1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)4 COUNTY OF GREENVILLE)
5
67 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 General Sessions for Greenville County, South Carolina,
14 on the 1st day of September, 2016.15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.
1718 October 9, 2017
1920 
21

22 Cheryl A. Smith, CVR-M

23 Court Reporter
24
25

FORM 5

STATE OF SOUTH CAROLINA)

County of Greenville)

SED Douglas WHEELER 369693)
Full name and person number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2017-CP-23-05235

APPLICATION FOR
POST-CONVICTION RELIEF

FILED-CLERK COURT
PAUL B. WICKHAM
GREENVILLE, S.C.
2017 AUG 17 PM 3:24

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 ALLENDALE CORR INST. PO BOX 1151
Fairfax S.C 29687
2. Name and location of Court which imposed sentence Greenville County
10th Circuit Court
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 16 GS 2300601
 - (b) _____

(c) _____

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

(a) September, 1, 2016

(b) _____

(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?

N/A

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

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

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

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

(a) N/A

(b) _____

(c) _____

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

- (a) INEFFECTIVE ASSISTANT OF COUNSEL ON PLEA AGREEMENT
- (b) SCDC ALTERED THE JUDGE'S ORIGINAL RULING OF
- (c) 10 YEAR NON VIOLENT SENTENCE

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

- (a) COURTS FAILED TO FOLLOW NEGOTIATED PLEA AGREEMENT
- (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. N/A
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. N/A
 - ii. _____
 - iii. _____
 - iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

N/A

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

(a) which grounds have been presented:

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

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

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

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

Modification, Alteration of Plea Agreement

IN ACORDANCE WITH S.C. CODE ANN. 17-25-326

TO RECEIVE THE ORIGINAL 10 Year NON-Violent That SCDC

CHANGED TO 10 Year Violent 60/20 WITHOUT PROPER AUTHORIZATION

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

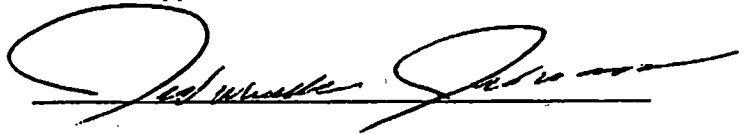
NO

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

I, JED WHEELER, 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.



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


Virginia Smith (L.S.)
Notary Public

My Commission Expires: 12/12/22

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

I, _____, 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.



Applicant

SWORN or affirmed to and subscribed before me this

9 day of August, 2017.



Notary Public

My Commission Expires: 12/12/17

SED 01111111 10101
ALLENDALE CORV. INST.
PO BOX 1151
Fairfax S.C. 29827

Legal Mail
Time Sensitive



UNITED STATES



RECEIVED

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Paul B Wickensimer
GREENVILLE COUNTY CLERK OF COURT
305 EAST NORTH STREET
GREENVILLE S.C. 29601

2017-CP-23- 05235

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Legal Mail

II.

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

1. Ineffective Assistance of Counsel on plea agreement.
 - a. Court failed to follow negotiated plea agreement.
2. SCDC altered the Judge's original ruling of 10 years non-violent sentence.

III.

Respondent submits Applicant's allegation of ineffective assistance of counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process" that the proceeding "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes counsel 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 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 counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's

performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. 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." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact the record does not conclusively refute. Accordingly, 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.

The Applicant's second allegation should be dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. §17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20.

Even if the facts alleged by Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. PCR relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v.

State, 338 S.C. 354, 527 S.E.2d 742 (2000). These issues are improper for post-conviction relief because they could have been raised on direct appeal and are procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). Applicant could have raised this issue at trial or on appeal. His failure to do so has waived this allegation as a ground for relief.

For these reasons and pursuant to Rule 12(b)(6), SCRCP, the Court should dismiss the Applicant's second allegation for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

V.

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), SCRCP. 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, SCRCP. 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), SCRCP.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
)
)
 JED D. WHEELER, 369693)
)
)
)
)
 Applicant,)
)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
)
)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

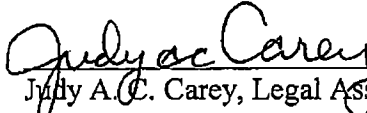
2017-CP-23-5235

AFFIDAVIT OF SERVICE BY MAIL

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

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

DATED this 17th day of January, 2018.


 Judy A.C. Carey, Legal Assistant
 For Respondent

I N D E X

(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent's Witness

Page No.

(AW) JED DOUGLAS WHEELER:

Direct Examination by Ms. Ross.....
Cross-Examination by Mr. Mitchell.....

(RW) RANDALL LEE CHAMBERS:

Direct Examination by Mr. Mitchell.....
Cross-Examination by Ms. Ross.....

(AW) JED DOUGLAS WHEELER:

Direct Examination by Ms. Ross.....
Cross-Examination by Mr. Mitchell.....

INDEX (CONTINUED)

E X H I B I T S

(There were no exhibits introduced.)

P R O C E E D I N G S

1
2 THE COURT: I believe that this is 17-CP-32 -- sorry
3 23-5235, Jed Wheeler v. State.

4 Is that correct?

5 MR. MITCHELL: That's correct, Your Honor.

6 THE COURT: All right. Mr. Wheeler, my name is Frank
7 Addy. I'm a circuit judge from Greenwood.

8 MR. JED WHEELER: How are you doing, Your Honor?

9 THE COURT: Good to see you.

10 Do you want to lay a basis for what we're here on
11 today, please?

12 MR. MITCHELL: Yes, sir, I can.

13 May it please the Court.

14 THE COURT: Yes, sir.

15 MR. MITCHELL: Deshawn Mitchell for the State.

16 This is, as Your Honor has indicated,
17 2017-CP-23-5235, Jed Wheeler v. the State of South
18 Carolina.

19 The Applicant is presently confined in the South
20 Carolina Department of Corrections pursuant to orders of
21 commitment of the Greenville County Clerk of Court. The
22 Applicant waived presentment to the Grand Jury on a charge
23 of bank robbery.

24 Mr. Randall L. Chambers represented him. On
25 September 9th, 2016, the Applicant pled guilty to bank

1 robbery before the Honorable Perry H. Gravely. Judge
2 Gravely sentenced the Applicant to 10 years, with credit
3 for time served.

4 The Applicant did not appeal this sentence or
5 conviction. The Applicant filed a post-conviction relief
6 application on August 17th, 2017, making the allegations
7 that his counsel was ineffective for failing to follow a
8 negotiated plea agreement, and that the South Carolina
9 Department of Corrections altered the Judge's original
10 ruling of a 10 year non-violent sentence.

11 He's present in the courtroom today and represented
12 by Ms. Ross.

13 THE COURT: All right. Ms. Ross, are y'all ready to
14 proceed?

15 MS. ROSS: Yes, Your Honor.

16 THE COURT: All right. And I have had a chance to
17 review the pleadings over the weekend involved in this
18 case.

19 Do you want to call your first witness?

20 MS. ROSS: Yes.

21 I just wanted to make sure that -- I'd sent in a
22 supplemental application. I wanted to make sure the Court
23 and opposing counsel had a copy of that.

24 MR. MITCHELL: I apologize, Judge. For the record,
25 Ms. Ross submitted a supplemental application dated

1 February 14th, 2018 --

2 THE COURT: Okay.

3 MR. MITCHELL: -- with additional allegations.

4 Is that in your packet, Your Honor?

5 THE COURT: It is not.

6 Does somebody have a copy?

7 MR. MITCHELL: I'll let you have the copy I have.

8 THE CLERK: I think my copy is on my desk. If you
9 need for me to go get it, I will.

10 MR. MITCHELL: It's scanned into my computer.

11 (Pause.)

12 THE COURT: Okay. I've reviewed the supplemental
13 application. I'm happy to proceed if you are ready.

14 MS. ROSS: Thank you, Your Honor.

15 And I just -- well, I can wait until after --

16 I'd call Jed Wheeler at this time.

17 THE COURT: Mr. Wheeler, if you'll come up and have a
18 seat over here, please.

19 THE CLERK: Mr. Wheeler, step over here.

20 Place your left hand on the Bible and raise your
21 right hand.

22 WHEREUPON,

23 JED DOUGLAS WHEELER,

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

25 THE CLERK: Thank you.

1 You may be seated.

2 Please state your full name for the record.

3 THE WITNESS: Jed Douglas Wheeler.

4 DIRECT EXAMINATION

5 BY MS. ROSS:

6 Q Mr. Wheeler, do you understand why you're here?

7 A Yes.

8 Q Can you tell the Court what your allegations of
9 ineffective assistance of counsel are?

10 A Well, under my knowledge, when I was signing the
11 plea, you know, it was a 10-year non-violent. And I was
12 under the understanding that it was a -- you know,
13 non-violent was a 65 percent. With work credits, I'd, you
14 know, have -- I -- I thought I'd be doing about five
15 years, six months. I didn't know that -- at the time,
16 that it was a mandatory 85 sentence with no parole.

17 Q How --

18 A I -- I --

19 Q Go ahead.

20 A Go ahead.

21 Q How were you under the impression that non-violent
22 was 65 percent?

23 A I mean, I've never been -- I've never been through
24 the system. This is my first time, my first offense. So
25 in the county jail, you know, the talk is if you get a

1 non-violent, you're -- you know, you've got a 65 percent
2 chance -- I mean, that's -- you're going to do 65 percent
3 of your time.

4 MS. ROSS: All right. And if I may approach.

5 BY MS. ROSS:

6 Q I'm handing you a copy of your transcript. On Page
7 23, what are you asking the Judge at the conclusion of
8 your plea?

9 A I asked the Judge -- at the time, I asked him if it
10 was non-violent. And he -- he replied -- hold on here. I
11 asked, Is it non-violent?

12 Mr. Chambers, That is non-violent.

13 The Court, But it is serious.

14 Defendant Wheeler, Yes, it is.

15 Q Okay. Now, did you understand what serious meant?

16 A No, no.

17 Q And when you were asking about whether it was
18 non-violent, why were you continuing to ask about that?

19 A Well, I mean, it was because -- I just wanted to
20 be -- it to be made sure that it was non-violent so I
21 would be getting 65 percent.

22 Q All right.

23 A I'd be serving only 65 percent of the time.

24 Q And the facts presented of your -- in your guilty
25 plea, you -- you, essentially, pled to passing a note to

1 the bank teller?

2 A It was no -- I'd say no. There was no note. I had
3 walked in with a -- with a shirt covering my head to
4 disguise myself; not to put fear or anything, you know. I
5 wasn't trying to intimidate nobody. I -- I was just
6 trying to disguise myself. And I had to just ask the
7 teller for -- for hundreds now. And that was it. I
8 didn't threaten nobody.

9 Q Okay. Did you reach across or come at her in any
10 way?

11 A No, no. She handed the money over.

12 Q And did you have a weapon, or anything?

13 A No. No weapon.

14 Q And did you make any physical threat of what you
15 would do if she didn't --

16 A No, no.

17 Q All right. Is there anything else you'd like the
18 Judge to hear for your PCR?

19 A I just -- I just think the -- you know, entering a
20 bank and loan facility with intent to steal, you know,
21 it's -- it's zero to 30 -- 30 years. And I know that's
22 why I'm doing 85 percent. I believe a lot -- all the
23 paperwork says, strong armed robbery. That's -- I guess
24 now that I know, you know, strong armed is the lesser
25 offense, I would have really liked to have pled to strong

1 armed robbery, I really would have, if I would've known.

2 Q All right. And just clarifying. Now, you know it
3 carries up to 30 and is an 85 percent charge. Before you
4 pled, had your lawyer advised you of that fact?

5 A No.

6 Q Did he discuss with you the alternative of pleading
7 to strong armed robbery?

8 A No.

9 MS. ROSS: All right. I have no further questions.

10 MR. MITCHELL: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. MITCHELL:

13 Q Good morning, Mr. Wheeler.

14 How are you?

15 A I'm doing fine.

16 Yourself?

17 Q I'm doing well.

18 I just have a couple questions to ask you. How many
19 times did you meet with Mr. Chambers prior to pleading
20 guilty?

21 A Twice.

22 Q Twice. And during those conversations, did you guys
23 discuss the evidence that the State had against you?

24 A We did. We did discuss -- you know, I -- I had
25 admitted to the charge. So pretty much, it really wasn't

1 much, you know, to go over. I was just -- you know, I
2 really just wanted to kind of get on with my life. I knew
3 I had -- you know, I screwed up. So I admitted to the --
4 the charge. So really there was no -- there was no
5 denying the fact.

6 Q Let me ask you this. You said you admitted to the
7 charge. Did you admit to your attorney, or did you admit
8 to the -- to the police?

9 A I admitted to the police.

10 Q Okay. And in -- in consultation with Mr. Chambers,
11 you said he didn't go over the charges with you and what
12 the sentences carry?

13 A Not that I can recall. Really, it was -- they were
14 brief, brief encounters. I -- I remember a certain
15 instance where he -- he -- where he said entering a bank
16 and loan facility with intent to steal and he kind of was
17 like -- he was wondering really what that was, compared to
18 strong armed.

19 But we didn't really discuss much about what I would
20 be charged with, you know, the strong armed or entering a
21 bank and loan facility with intent to steal. It really
22 wasn't much of a -- I guess I just didn't know my options.
23 I didn't know class A to class B felonies. I didn't know.
24 I -- I was thinking A is better. Entering a bank and loan
25 facility sounds better than strong armed being -- you

1 know, I just -- I guess I just was misinformed.

2 Q Well, let me ask you. You remember the guilty plea
3 proceeding; correct?

4 A Yes.

5 Q Okay. So you remember the Judge going over the
6 amount of time that you could get if you pled guilty to
7 this charge; right?

8 A I -- I can't recall.

9 MR. MITCHELL: Judge, I would just note, for the
10 record, Page 8 where the Judge goes over the amount of
11 time the sentence carries.

12 BY MR. MITCHELL:

13 Q I heard Ms. Ross ask you in reference to Page 23
14 where you asked the Judge, Is this crime considered a
15 violent or a non-violent?

16 And the Judge says, It's considered non-violent;
17 right?

18 A (There was no response.)

19 Q And then you say -- or he asked, Is it serious?

20 And you said, Yes, it's serious.

21 A No. I -- I never said it was serious. I -- from --
22 from what I understood was serious -- most serious, from
23 what I understood, was that that's a strike rule. If I
24 was to do it again for something, then it would be
25 considered most serious. I guess I really -- I guess it's

1 better than -- serious seems better than most serious.

2 Q You seem pretty informed now about things in relation
3 to the law. So are you saying you acquired this knowledge
4 after you pled guilty?

5 A Yeah. After -- after I -- you know, just going into
6 the law library, just being around. In -- in prison, you
7 hear a lot. People talk about their cases. I talk about
8 mine. Like I said, it's my first time being in prison.
9 So, I mean, I understand things now that I didn't at the
10 time.

11 MR. MITCHELL: Thank you so much, Mr. Wheeler.

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

13 THE COURT: Any redirect?

14 MS. ROSS: No, Your Honor.

15 THE COURT: All right. Sir, you can step down.

16 Thank you.

17 Call your next witness.

18 MS. ROSS: Mr. Wheeler is our only witness, Your
19 Honor.

20 THE COURT: All right.

21 MR. MITCHELL: Your Honor, the State would call
22 Randall Chambers to the stand.

23 THE COURT: If you'll come on up, please,
24 Mr. Chambers.

25 THE CLERK: Mr. Chambers, please place your left hand

1 on the Bible and raise your right hand.

2 WHEREUPON,

3 RANDALL LEE CHAMBERS,

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

5 THE CLERK: Thank you.

6 You may be seated.

7 And please state your full name for the record.

8 THE WITNESS: My name is Randall Lee Chambers.

9 DIRECT EXAMINATION

10 BY MR. MITCHELL:

11 Q Good morning, Mr. Chambers.

12 How are you?

13 A I'm doing okay.

14 How about you?

15 Q I'm doing well.

16 How long have you practiced criminal law here in
17 South Carolina, Mr. Chambers?

18 A Since 1992.

19 Q Since 1992. So in relation to this case, were you
20 retained, or were you appointed?

21 A Appointed.

22 Q Appointed. Okay. And I know there's been some
23 discussion previously. But can you tell me a little bit
24 about how the -- the charges arose in this case, or a
25 little factual background?

1 A I don't remember the specific institution. But it
2 was -- the allegation was that my client went into the
3 bank. As he said, he had a shirt or something over his
4 head. And he went up and, essentially, asked for money.
5 And they gave him money. And he exited the bank.

6 Q Okay. And let me ask you this. I heard the
7 Applicant testify that he met with you twice. Do you
8 recall the number of times that you met with him?

9 A No. And I went back through my file. And -- and I
10 didn't take good -- as many notes probably as I needed to
11 on that particular case. But, yeah, he's -- he's right in
12 that we didn't meet probably very many times. It was -- I
13 would think it was more than two, but it could have been
14 two.

15 He pretty much was talking plea from the first time
16 that I met him. And so that was kind of what we were
17 geared toward. My recollection was that he had a -- some
18 sort of case up in New Hampshire that he was anxious to
19 get taken care of. So he wanted to do this case. And
20 then he wanted to take care of the New Hampshire case.

21 Q Now, let me ask you this. During those meetings,
22 would it have been your normal course of practice to talk
23 about the exposure that the Defendant would be looking at
24 in this type of case?

25 A Yeah. I mean, I'm sure I went over the sentence

1 range, you know, the zero to 30.

2 Q Okay. Let me -- let me ask you this about the -- the
3 factual scenario. I know you said that the Applicant
4 wanted to plead from the very beginning.

5 A Uh-huh.

6 Q You heard him testify that he gave a statement to the
7 police. Were there any other type of evidence in this
8 case that pointed that he was the culprit in this case, if
9 you recall?

10 A I mean, they identified him somehow. And I -- and I
11 don't remember exactly how he was identified. But then
12 once the police talked to him, he confessed.

13 Q Okay. Is it a fair statement on my part -- and
14 correct me if I'm wrong -- in saying that there was
15 overwhelming evidence of the Defendant's guilt in this
16 case?

17 A I mean, there was enough evidence for him to plead
18 guilty. I -- I agree with his assessment that -- that
19 there wasn't a lot of coercion or anything involved. And
20 that he didn't threaten violence, or anything like that.
21 But I think there was enough of a factual basis for him to
22 plead guilty.

23 MR. MITCHELL: Thank you, Mr. Chambers.

24 Please answer any questions that Ms. Ross may have.

25 THE COURT: Ms. Ross.

1

CROSS-EXAMINATION

2

BY MS. ROSS:

3

Q So you can't say for sure whether you, actually, advised your client that he would have to do, at least, 85 percent of this charge before being eligible for parole?

6

7

A Now, I very well may not have done that. I mean, my -- what I tend to do is -- is to advise people that -- you know, that I don't know how the Department of Corrections is going to calculate their sentence. Because I really don't like to -- I'm -- I don't like to get into that.

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I -- I know that I told him what the sentence range was. I know that we discussed that it was non-violent. And it, in fact, is a non-violent offense. And I think it's classified that way with the Department of Corrections.

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It is possible, though, that until that day, there was -- that I didn't discuss with him that it was a serious offense. I just don't -- I just don't know. So I heard him testify to that effect. It may be -- very well be that I didn't -- that I didn't tell him that.

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Q So you don't have any specific recollection of telling him that it was a non-parolable offense?

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A I do not recall that. So it's possible that I didn't

1 do that.

2 Q All right. And I'm just handing you the transcript.
3 On Page 10, around Line 18, 19, the Judge advises the
4 Applicant about his charges and the -- you know, the fact
5 that it's serious. So he was advised of that. But is
6 there anything in there where he advised that that was a
7 non-parolable offense?

8 A Well, he says it would, also, affect your eligibility
9 for parole, and other things. It was kind of a generic
10 statement, but he said that.

11 Q Right. And -- and when he says that, he's talking
12 about the serious?

13 A Yeah.

14 Q The fact that it's serious?

15 A Yeah.

16 Q And then he later does say, It's, actually,
17 non-violent; correct?

18 A He does say that.

19 Q Now, as far as the recitation of the facts, do you
20 recall the recitation of the facts in this case?

21 A You know what, I didn't look at it before I came over
22 this morning. I looked at it a couple weeks ago when I
23 first got it, so.

24 Q All right.

25 A And now --

1 Q And, now, I can't locate it in the transcript.

2 A Because I had -- I had --

3 Q I apologize. I'm looking at -- there are two people
4 who pled. And I'm looking at a totally different --

5 A Yeah. Because I had three things scheduled for this
6 morning. And I was looking at all those. And so, at this
7 point, they're kind of running together on me.

8 MS. ROSS: Okay. I beg the Court's indulgence.

9 (Pause.)

10 BY MS. ROSS:

11 Q On Page 21 are the facts. Is there anything about
12 threats, or force, or intimidation in that recitation of
13 the facts that you see?

14 A What -- what lines did you say?

15 Q I think it starts at the top of that page.

16 A Yeah. I mean, other than he demanded money, I mean,
17 there's no threats of any kind, which, you know, is
18 consistent with what I recall.

19 Q Now, do you recall anything about a strong armed
20 robbery being a plea option in this case?

21 A No. I mean, if they'd offered strong armed robbery,
22 I would've jumped all over that.

23 Q Did you request that, specifically?

24 A I'm sure that I did. Again, I don't remember,
25 specifically, talking to the Solicitor about it. But

1 it -- you know, he's correct when I said that I wasn't
2 familiar with the charge. To my knowledge, this is the
3 one and only time I've had anybody plead guilty to that
4 particular charge.

5 And I think I did talk to the Solicitor about doing a
6 strong armed robbery. And they -- they were not willing
7 to do that. And so I ran this other thing by my client,
8 and he wanted to plead.. So that's what we did.

9 MS. ROSS: All right. And I've got nothing further,
10 no further questions.

11 THE COURT: Any redirect?

12 MR. MITCHELL: No additional questions, Your Honor.

13 THE COURT: Sir, thank you very much.

14 THE WITNESS: Thank you.

15 THE COURT: You may step down.

16 Any additional witnesses for the State?

17 MR. MITCHELL: No, Your Honor.

18 THE COURT: Anything in reply?

19 MS. ROSS: No, Your Honor.

20 THE COURT: All right. Let me hear from y'all. I
21 think the -- the central question in this case relates to
22 the 85 percent non-parole nature of this offense.

23 It looks like he pled guilty, according to my notes,
24 to Subsection A that does carry up to 30 years. It is a
25 non-parolable, 85 percent type of offense. And I don't

1 see where the Court reviewed that with him.

2 Do y'all want to speak to that, or can y'all point me
3 to any --

4 MS. ROSS: Judge, I -- just briefly. I was going to
5 hand up some case law.

6 THE COURT: Please.

7 MS. ROSS: I've got Didier -- Didier Van Sellner v.
8 State, and then two unpublished opinions that you can take
9 for what they are worth.

10 THE COURT: Okay.

11 MS. ROSS: Really, it goes to Pittman and whether a
12 plea is knowingly and voluntarily made. I'd -- I'd
13 recognize that -- that certain things are collateral
14 consequences.

15 In this case, Mr. Wheeler's made it clear and the
16 transcript doesn't correct that unclarity when something
17 is non-violent, it's reasonable for the Applicant to -- to
18 assume that that means it's parole eligible. And that
19 would be a collateral consequence that -- that steps up to
20 the level of whether the plea was knowingly and
21 voluntarily made. Because it goes directly to what
22 effects most defendants the most, the amount of prison
23 time he's doing. So I would let those cases speak for
24 themselves.

25 As to the factual basis. I just -- in looking over

1 the transcript and the facts presented in that transcript,
2 I don't see facts to support the charge, which requires
3 that money be stolen either by force, intimidation, or
4 threats. And those -- that's not indicated in the plea
5 transcript on Page 21 where the facts were recited.

6 So that would be the basis of Mr. Wheeler's
7 application for PCR.

8 THE COURT: All right. Attorney General.

9 MR. MITCHELL: Yes, sir, Your Honor.

10 The State's position would be, given the testimony
11 that we've heard from counsel in regards to him informing
12 the Applicant about the charges that he was facing, the
13 potential sentences -- sentence for the charge that he was
14 going to plead guilty to. In terms of whether there's
15 been ineffective assistance of counsel in this particular
16 case, I think there was some testimony that there was --
17 in this case there was what I would deem overwhelming
18 evidence of guilt in this case, a confession by the
19 Defendant to the police.

20 And, also, the employees in the bank being able to
21 offer -- I don't know if I would go so far as to -- to say
22 that they identified him, but offered a description of who
23 took the money from the bank. And then, also, the
24 Defendant being caught with a \$50 bill from the bank at a
25 nearby gas station.

1 Pursuant to State -- Harris v. State, I think that
2 the Applicant cannot prove prejudice from ineffective
3 assistance of counsel, if there is overwhelming evidence
4 of guilt in this particular case.

5 THE COURT: Yes, ma'am.

6 MS. ROSS: Judge, in reply. I -- I can't recall
7 whether I, specifically, asked the Applicant this, and I'd
8 ask leave to recall him to the stand, whether he would
9 have pled if he'd have known it was an 85 percent charge.
10 That's an error on my part. He tells me he would not.
11 But I'd be happy to recall him to the stand, if it's not
12 too late --

13 THE COURT: I'll let you do that. He can stay where
14 he is, though.

15 You're still under oath, sir.

16 Do you want to ask him that question, specifically?
17 I sort of took his earlier testimony to imply that. But
18 let's clear the record up.

19 DIRECT EXAMINATION

20 BY MS. ROSS:

21 Q Okay. Mr. Wheeler, you pled guilty and you stated
22 earlier it was with the understanding that it was a
23 non-violent offense. If you'd known that it was
24 non-parole -- not parole eligible, would you have pled
25 guilty to that charge?

1 A No, ma'am.

2 THE COURT: Any additional questions?

3 CROSS-EXAMINATION

4 BY MR. MITCHELL:

5 Q So you would've went to trial, even though you gave a
6 confession to the police?

7 A No. I -- I would have tried to have negotiated --
8 negotiate a different -- different plea.

9 MR. MITCHELL: That's all the questions I have,
10 Judge.

11 THE COURT: All right. The Court will take this
12 matter under advisement. And I'll have y'all a Form 4
13 order as soon as I've had a chance to review some of the
14 cases that have been submitted to the Court.

15 So the matter will be under advisement. And I'll
16 have a Form 4 out by -- at the latest, by Friday of this
17 week.

18 Thank you.

19 *****END OF TRANSCRIPT OF RECORD*****

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 20th day of February, 2018.

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

August 6, 2018



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. Applicant waived presentment to the grand jury on the charge of bank robbery (2016-GS-23-601). Randall L. Chambers, Esquire, represented Applicant. On September 9, 2016, Applicant plead guilty to bank robbery before the Honorable Perry H. Gravely. Judge Gravely sentenced Applicant to ten years with credit for any time served already. Applicant did not appeal his sentences or convictions.

FACTUAL HISTORY

On October 13, 2015, Applicant entered the Regions Bank in Simpsonville in Greenville County. Applicant was wearing a dark shirt over his face. Applicant demanded money from the teller and as the teller was putting the money in a bag, she was able to slide a dye pack in the bag. Applicant then left the bank and took off his mask as he was leaving. The teller and other employees were able to see that he was a young white male. Subsequently, an individual matching the description of the robber presented a \$50 bill to a Spinx gas station in order to buy alcohol. The police were able to identify Applicant and arrested him. During a recorded interview, Applicant confessed to this bank robbery as well as a robbery that occurred elsewhere. (GP. Tran. p. 21).

ALLEGATIONS

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

1. Ineffective Assistance of Counsel on plea agreement.
 - a. Court failed to follow negotiated plea agreement.
2. SCDC altered the Judge's original ruling of 10 years non-violent sentence.

On February 14, 2018, Applicant filed a supplemental application alleging he is being

held in custody unlawfully for the following reasons:

1. Ineffective assistance of plea counsel for advising the Applicant to plead guilty to charge lacking the factual basis of force, intimidation, or threat and misadvising the Applicant as to the amount of time he would serve;
2. Due Process violations due to the plea not being knowingly and voluntarily made and lack of factual basis for the charge of entering bank with intent to steal the record.

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTARY HEARING

Applicant's Testimony

Applicant testified he was charged with bank robbery. He testified when he pled guilty he believed he was signing a plea sheet to a guilty plea for a non-violent offense in which he would only have to serve sixty-five percent of that time. Applicant testified he did not know he would have to serve eighty-five percent of the sentence he pled guilty to. He testified that he subsequently found that out in the county jail. Applicant testified during the guilty plea proceeding that he wanted to make sure the crime he was pleading guilty to was non-violent so he asked the plea judge. He testified he did not have a weapon during the crime and do not reach for one.

On cross-examination, Applicant testified he met with Plea Counsel twice. He testified he admitted to police he committed the crime and gave a statement.

Plea Counsel's Testimony

Plea Counsel testified he had practiced law in South Carolina for quite some time. He testified he met with Applicant at least two times prior to Applicant pleading guilty. Plea Counsel testified Applicant was talking about pleading guilty during their first meeting. Plea Counsel testified there was a substantial factual basis for Applicant entering the guilty plea.

On cross-examination, Plea Counsel testified he did not recall if he told Applicant that the offense he was pleading guilty to was considered non-violent versus violent or how that

would affect the amount of time he would have to serve.

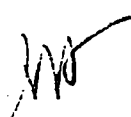
FINDINGS OF FACT AND CONCLUSIONS OF LAW

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.

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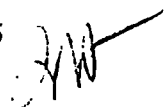
Washington, 466 at 688). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With 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).

After careful review of the entire record, including the testimony presented at the evidentiary hearings, based on the standard discussed above, this Court finds Applicant has failed to carry his burden in this action regarding any of his allegations of ineffective assistance of counsel. A summary of this Court's findings is discussed below.

Ineffective Assistance of Counsel

Applicant's primary ground for relief is that he was not advised that the bank robbery charge to which he pled guilty and received a ten year sentence was classified as a "no-parole offense" pursuant to Section 24-13-100 of the South Carolina Code of Laws. Applicant testified that, although he was advised that the offense was serious, the non-violent nature of the charge caused him to believe that the offense would be parole eligible. This Court having reviewed the guilty plea transcript finds Judge Gravely did not specifically inform Applicant that the offense was a "no-parole", eight-five percent offense. Similarly, this Court finds plea counsel testified he did not recall informing Applicant of the fact that this was a "no-parole offense".

Because of the additional time which an inmate must serve in SCDC for "no parole offenses," this Court finds that the better and preferred practice is for the plea court and counsel to specifically inform a defendant of the fact that they will have to serve eighty-five percent of



the sentence imposed. In this case, this Court finds Applicant was not informed of the “no-parole” nature of his sentence.

However, to the extent which Plea Counsel and the plea court should have informed Applicant of this fact, this Court finds that Applicant has suffered no prejudice. From the evidence presented at the evidentiary hearing, the underlying case for the State was extremely strong in that Applicant confessed to the robbery after he was caught attempting to pass one of the dye-stained bills stolen in the robbery. The State was unwilling to offer any plea to a charge of strong arm robbery or any other offense which would be a non-eighty-five percent offense. Accordingly, based on the overwhelming evidence of guilt and the fact that more lenient offers were not available, this Court finds that Applicant has failed to show any prejudice despite any supposed deficient performance by plea counsel.

Furthermore, to the extent Applicant raises the issue of whether his conduct rose to the level of “threats, force, or intimidation” as required under 16-11-380 (A) for the charge of bank robbery, this Court finds a sufficient factual basis was presented during the plea colloquy to indicate that Applicant “demanded money from the teller.” Accordingly, Applicant conduct was sufficient to constitute the crime of bank robbery. Therefore, Applicant’s application is dismissed and denied.

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

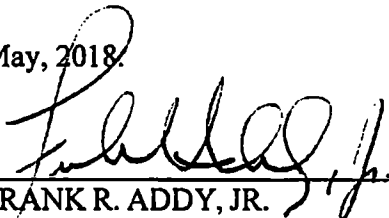
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appellate review. *See* Rule 203, SCACR. An applicant has a right to an appellate counsel's assistance when they are seeking review of the denial of PCR. Austin v. State, 305 S.C. 453 (1991). If an applicant wishes to seek appellate review, PCR counsel 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.

IT IS SO ORDERED this 8th day of May, 2018.


FRANK R. ADDY, JR.
Presiding Judge
Thirteenth Judicial Circuit

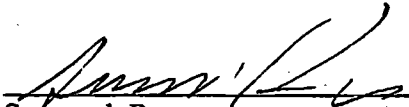
Greenwood, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	CASE NO. 2017-CP-23-5235
COUNTY OF GREENVILLE)	
)	
JED D. WHEELER,)	ENTERED COMPUTER
)	
APPLICANT,)	MOTION TO ALTER OR AMEND
)	THE JUDGMENT
VS.)	
)	
STATE OF SOUTH CAROLINA,)	
)	
RESPONDENT.)	

18 MAY 29 PM 4:34
Paul Wickensimer CDC SUL SC

Pursuant to Rule 59(e), SCRPC, Applicant hereby moves to alter or amend the judgment of this Court filed on May 17, 2018. Page six of the Order finds that the Applicant suffered no prejudice based on the overwhelming evidence of guilt and that fact that more lenient offers were not available. A week after the filing Frierson v. State held, ..."the prejudice analysis should be limited to the outcome of the plea process - whether but for counsel's deficiency, the defendant would have declined to plead and instead proceeded to trial." Derryl Frierson v. State, Op. No. 27801, Filed May 23, 2018.

For the foregoing reason, the Applicant requests this Court to alter or amend its Order of Dismissal.

Respectfully submitted,

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

Greenville, South Carolina
This 29 day of May, 2018.

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Jed D. Wheeler,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

2017-CP-23-5235

**ORDER DENYING APPLICANT'S
MOTION FOR RECONSIDERATION**

18 JUN 6 PM 12:03
Paul Wickensimer COC:SVL SC

THIS MATTER CAME BEFORE THE COURT pursuant to Applicant's Rule 59(e) SCRCR motion for reconsideration dated and filed on May 29, 2018. In his motion, Applicant did not request a hearing, and the court does not feel that a hearing is necessary or would be helpful as the court has retained a good recollection of the testimony from the hearing. Applicant seeks reconsideration of the court's prior Order of Dismissal which was filed on May 17, 2018.

Applicant cites the recent case of Frierson v. State, Op. No. 27801 filed on May 23, 2018, six (6) days after the Court's order in the present case. In *Frierson*, the South Carolina Supreme Court clarified the standard to be employed by the trial courts concerning PCRs from guilty pleas. The Supreme Court stated that the proper standard is "whether but for counsel's deficiency, the defendant would have declined to plead and instead proceeded to trial." *Id.* Furthermore, the *Frierson* Court cautioned the trial bench that, where deficiency and prejudice are shown, courts should not then engage in an overwhelming evidence analysis.


To the extent the order of May 8, 2018 analyzed the strength of the state's case in discussing the prejudice prong, Applicant's point concerning the *Frierson* holding is well-taken. However, even if this Court erred by engaging in such an analysis, Applicant is not automatically entitled to relief.

In the May 8, 2018 Order, the Court did find that Applicant was not informed of the no-parole nature of the charge to which he pled. However, it is a settled principle of law that counsel need not specifically advise a client concerning parole eligibility. Hill v. Lockhart, 474 U.S. 52, 56 (1985). Only where counsel undertakes to advise a client on parole eligibility, and that advice is relied upon in pleading and also turns out to be erroneous, should relief be granted. Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

In the present case, plea counsel testified that he could not specifically recall whether he advised Applicant concerning parole eligibility but that his normal practice was not to discuss parole eligibility; similarly, the plea judge did not offer any such advice during the colloquy. Accordingly, because counsel was under no obligation to advise Applicant with respect to parole eligibility and consistent with the holding in *Frasier*, the Court finds that plea counsel was not deficient in his representation. Accordingly, the Court reaffirms its denial of relief.

Having reconsidered the matter, the Court modifies the Order of May 8, 2018 in the above respects. In all other respects, the Court's prior order denying the Application is reaffirmed.

IT IS SO ORDERED.



FRANK R. ADDY, JR.
Presiding Judge

May 30, 2018
Greenwood, South Carolina

ARREST WARRANT

2015A2330209167

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenville

SS31
10-21-15

THE STATE

1-2015-170587

against

Jed Douglas Wheeler

Address:

Newipswich, NH 03071-

Phone: _____ SSN: _____

Sex: M Race: W Height: 5 6 Weight: 135

DL State: SC DL #: _____

DOB: ____/1981 Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriffs Office

Prosecuting Officer: C J Mc Calmont - 0948

Offense: Robbery / Entering bank, depository or bldg and loan association with intent to steal

Offense Code: 0257

Code/Ordinance Sec: 16-11-0380(A)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to defendant J. Wheeler

on 10-16-15

D. Carter
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Greenville General Sessions
305 E. North Street
Greenville County Courthouse
Greenville, SC 29601-2120

Cagle

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenville

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

74

Personally appeared before me the affiant C J Mc Calmont who

being duly sworn deposes and says that defendant Jed Douglas Wheeler

did within this county and state on or about 10/13/2015 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Greenville)

in the following particulars:

DESCRIPTION OF OFFENSE: Robbery / Entering bank, depository or bldg and loan association with intent to steal

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The affiant is an Investigator with the Greenville County Sheriffs Office and has a report of a strong arm robbery which occurred on 10/13/15 at 2565 Woodruff Rd (Regions Bank). The perpetrator entered the bank with a shirt covering his head and face then demanded that the bank employees give him the money. The employees complied and handed over the money. The defendant has been interviewed and admitted to being the perpetrator in this incident. This incident occurred in the county of Greenville, SC.

Signature of Affiant

C J Mc Calmont 10/16/15

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenville

Affiant's Address 4 Mcgee Street

Greenville, SC 29601-

Affiant's Telephone (864)271-5210

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 10/13/2015 defendant Jed Douglas Wheeler

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Greenville) as set forth below.

DESCRIPTION OF OFFENSE: Robbery / Entering bank, depository or bldg and loan association with intent to steal

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 10/16/2015

Signature of Issuing Judge

James E Hudson

Judge Code: 5031

(L.S.)

Judge's Address Law Enforcement Center

Greenville, SC 29601-2256

Judge's Telephone (864)467-5303

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BANK ROBBERY

At a Court of General Sessions, convened on _____ the Grand Jurors of Greenville
County present upon their oath:

That JED DOUGLAS WHEELER did in Greenville County, on or about the 13th day of October 2015, enter the
REGIONS BANK, located 2565 Woodruff Road, Greenville South Carolina, with intent to steal money, securities
for money or property, either by force, intimidation or threats. This is in violation of §16-11-380 of the South
Carolina Code of Laws (1976) as amended.

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



SOLICITOR BAR # 73601

WITNESSES

C J McCalmont

Greenville County Sheriffs Office

10/16/2015

ARREST WARRANT NUMBER
2015A2330209167

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2016-GS-23-^{JMG} 000601

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2016

THE STATE

vs.

JED DOUGLAS WHEELER

✓
0257

Indictment for

BANK ROBBERY

VIOLATION §16-11-0380

FILED

JAN 28 2016

Clerk of Court
Greenville County

[Handwritten Signature]
RECEIVED

