

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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CERTIORARI TO CHARLESTON COUNTY  
Thomas A. Russo, Post-Conviction Relief Judge

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Appellate Case No: 2018-001847

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S.C. SUPREME COURT

ALLEN STONE,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA,

PETITIONER.

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APPENDIX

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1 (July 15, 2014.)

2 THE COURT: Are you Allen Fletcher Stone?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Stone, you're here today  
5 charged with burglary second degree, violent. That  
6 carries a sentence of up to 15 years in prison. I'm told  
7 you want to plead guilty to that; is that correct?

8 THE DEFENDANT: Yes, sir, Your Honor.

9 THE COURT: First of all, this is a strike  
10 offense. Has your lawyer explained to you what strike  
11 offenses are?

12 (Brief pause.)

13 All right. Strike offenses means if you get  
14 enough of a certain type of crimes you go to jail for the  
15 rest of your life. We have two strike and three strike  
16 offenses in the state. This is one of the three strike  
17 offenses, and after today you will have one strike  
18 against you. If you get two more during your life,  
19 you'll go to jail for the rest of your life. There's no  
20 possibility of ever getting out on parole?

21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. You also have a right  
24 to a jury trial. You give up your right to a jury trial  
25 when you plead guilty. If you want a jury trial, stop

1 me. We will arrange that for you. The State then has to  
2 present enough evidence to convince 12 jurors you're  
3 guilty beyond a reasonable doubt. All 12 jurors have to  
4 agree you're guilty.

5 You can testify if you want, and if you don't  
6 want to testify, the judge will tell the jury they're not  
7 to hold that against you while they are deliberating.

8 Do you understand those rights?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you want to give those rights  
11 up and plead guilty today?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you pleading guilty to this  
14 charge because you're guilty of it?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Are you under the influence of  
17 drugs or alcohol today?

18 THE DEFENDANT: Mental health.

19 THE COURT: All right. Well, let's talk  
20 about that. What is your diagnosis?

21 THE DEFENDANT: Post-traumatic stress  
22 disorder and schizophrenic bipolar.

23 THE COURT: Do you take medication?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: What do you take?

1 THE DEFENDANT: Risperdal, Cogentin, and  
2 Neurontin.

3 THE COURT: All right. When's the last time  
4 you took it, those medications?

5 THE DEFENDANT: Last night and this morning.

6 THE COURT: Those are the prescribed amounts?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And they're given to you by the  
9 jail?

10 THE DEFENDANT: Yes, mental health.

11 THE COURT: All right. Other than that, do  
12 you have any sort of mental conditions which keep you  
13 from understanding what you're doing?

14 THE DEFENDANT: Not really, Your Honor.

15 THE COURT: Do you understand what you're  
16 doing here today?

17 THE DEFENDANT: Yes, I understand.

18 THE COURT: Do you understand what you're  
19 doing in court? What is your purpose in being here  
20 today?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: What is that?

23 THE DEFENDANT: I broke law.

24 THE COURT: And you want to give up your  
25 right to a jury trial and plead guilty?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. Sometimes people that  
3 have schizophrenic issues come in and tell me that voices  
4 tell them to do things. Is that ever an issue with you?

5 THE DEFENDANT: No, sir.

6 THE COURT: All right. So there's nobody  
7 telling you to plead guilty, right?

8 THE DEFENDANT: No, sir.

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

11 THE DEFENDANT: No, sir.

12 THE COURT: Did anybody promise you anything  
13 or threaten you to get you to plead guilty?

14 THE DEFENDANT: No, sir.

15 THE COURT: How old are you?

16 THE DEFENDANT: Fifty-one, sir.

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

18 THE DEFENDANT: I have my GED.

19 THE COURT: And did you work before you got  
20 arrested?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: What did do you?

23 THE DEFENDANT: I'm a certified carpenter.

24 THE COURT: Are you married?

25 THE DEFENDANT: No, sir.

1 THE COURT: Do you have children?

2 THE DEFENDANT: One son. He's grown.

3 THE COURT: Ms. Kennedy, does this gentleman  
4 understand when he's doing waiving his right to a jury  
5 trial and pleading guilty?

6 MS. KENNEDY: Yes, Your Honor, he does.

7 THE COURT: Any issues about his competency  
8 to stand trial or assist you today?

9 MS. KENNEDY: No, Your Honor, none  
10 whatsoever.

11 THE COURT: Any issues about not guilty by  
12 reason of insanity or guilty but mentally ill pleas?

13 MS. KENNEDY: No, Your Honor.

14 THE COURT: All right. I find that his plea  
15 is freely, voluntarily, and intelligently made.

16 What would the State like to tell me?

17 MR. WARING: Thank you, Your Honor. On  
18 January 17, 2014, around 1:30 in the morning, North  
19 Charleston police department officers responded to 4515  
20 Spruill Avenue, which is a dentistry business, in  
21 reference to an alarm going off. While checking the  
22 exterior of the business, an open door was located.  
23 Defendant was located inside the business while the  
24 business was closed. He was carrying a bag that  
25 contained drugs and other items that were from the

1 dentistry business.

2 He's got a very long record, Your Honor, and  
3 the State is not recommending anything.

4 THE COURT: All right. Ms. Kennedy?

5 MS. KENNEDY: Thank you, Your Honor. May it  
6 please the Court: Your Honor, I just want to give a  
7 little history about what led to Mr. Stone's arrest that  
8 night. He had been -- and I don't know if this hurts him  
9 or helps him, but I do need to explain it.

10 He had been released from the Hanahan city  
11 jail a couple of days prior for a trespassing incident  
12 involving a friend of his who he had stayed with a little  
13 bit, but then she wouldn't let him stay there anymore.

14 He served that time. He was released from  
15 jail, and when you get locked up and you come to retrieve  
16 your belongings at Hanahan, you have to come back during  
17 certain hours of the day. When he was arrested on the  
18 trespassing charge, his sleeping bag, his toiletries,  
19 everything that he could have used were still there, and  
20 he tried to get the stuff from Hanahan but was unable to  
21 do it because of the time factor and lack of  
22 transportation.

23 When he went into the dentist's office that  
24 night in January, the low temperature that night was 19  
25 degrees. I have no idea what the wind chill was, but he

1 went in there, initially, to find a place to get warm.  
2 When I talked to the officer at the prelim, he told me  
3 the same thing. He also, while he was in there, took  
4 some food out of the refrigerator, he and doesn't  
5 remember anything about the drugs, but that's essentially  
6 what happened to him.

7           So we are before you today on this burglary  
8 second violent, and I would share with the Court that he  
9 has made remarkable progress while he's in jail. He  
10 obviously, as he's told you, gotten on his meds. He has  
11 participated in every program that he can, that he could,  
12 and I think this is significant.

13           He volunteered for the very first Turning  
14 Leaf program that was -- the second one was the one, Your  
15 Honor, that had a number of people pleading guilty, and  
16 that was the solicitor/public defender sanctioned program  
17 where folks were promised that -- they represented they  
18 could get a probationary -- a sentence of probation,  
19 having completed that program. I think it's significant  
20 that he did that on his own, without any promise of  
21 anything for him. Amy Barch, she is the director of that  
22 program. She's been in constant contact with me about  
23 Mr. Stone.

24           As I said, he goes to church, he participates  
25 in all the activities. My contacts with him at the jail

1 have been an evolution in terms of his understanding of  
2 what his criminal activity has done to him, done to the  
3 community.

4 Part of the problem, obviously, Your Honor,  
5 was that he did not -- he wasn't on his meds. He is now.  
6 I spoke with him yesterday and discussed the plea and  
7 everything that went with it.

8 As can you see from those letters, Ms. Barch  
9 is willing to help him with transitional housing. He has  
10 a job waiting for him when he gets out he has follow-up  
11 with the Charleston Area Mental Health. They're going to  
12 continue to see him.

13 Your Honor, we can't dispute in any way that  
14 his record is horrible, and the issue is not necessarily  
15 whether we can show that he has changed. The issue is  
16 that he deserves an opportunity to show that he has, and,  
17 based on that, Your Honor, we would respectfully request  
18 that you sentence him to a sentence of probation.

19 All I can say is -- I mean, he's 51 years  
20 old. I represent people who are 20, 22; they're either  
21 very, very young, or they're in Mr. Stone's age range,  
22 but very few of them fall in the middle. I think the  
23 reason for that is when they're young, they either decide  
24 they need to do what they need to do, correct the mistake  
25 they made initially, or they just continue till they get

1 to the point where Mr. Stone is.

2 Your Honor, he hasn't had in all of his life  
3 any really good support system. All those things are in  
4 place right now, and, as I said, I think he deserves an  
5 opportunity to show that he has made the decisions and  
6 can make the right -- the decision to turn his life  
7 around, and he can make the correct choices from today  
8 forward, and I think he wishes to address the Court, Your  
9 Honor.

10 THE COURT: Yes, sir.

11 THE DEFENDANT: Yes, sir, Your Honor.

12 Your Honor, I apologize to the Court for my  
13 role now and in the past, and I'm sorry that it's taken  
14 so long for me to realize all -- excuse me. As I said, I  
15 have PTSD and other mental illness disorder. I now take  
16 medication for it. I medicated myself with alcohol and  
17 drugs.

18 Thanks to the Turning Leaf Project, Your  
19 Honor, I have turned a new leaf, and I now -- a  
20 restoration of justice, the law as I now see, with the 60  
21 hours in Ms. Amy's class, I see who I have harmed. I  
22 have asked God to forgive those and my sins, all my sins,  
23 and the fact if you could have mercy on me as well. I  
24 will harm no more, I promise.

25 Thanks to Amy and the Court and Ms. Kennedy

1 and my boss man. I apologize.

2 THE COURT: All right. Well, I don't doubt  
3 the sincerity of what you're saying. I do have to take  
4 into consideration that you have, you know, an  
5 extraordinarily long prior offense record here. A lot of  
6 them are burglary, burglary, trespassing, you know,  
7 breaking and entering; a lot of things like that, and  
8 these are the kind of things that come back and haunt  
9 you.

10 I'm going to give you 15 years, suspended to  
11 the service of five years of active time, and put you on  
12 probation for three years. I'm putting down here mental  
13 health treatment while in SCDC and while are you on  
14 probation.

15 MS. KENNEDY: Your Honor, will you give  
16 him -- he spent 180 days in jail.

17 THE COURT: Is that what his time served is?

18 MS. KENNEDY: Yes, sir.

19 THE COURT: Okay. Good luck.

20 (Recess taken.)

21 (2:15 p.m., in open court, defendant and  
22 counsel present.)

23 THE COURT: State versus Allen Stone. We  
24 took this plea this morning. What's the problem?

25 MS. KENNEDY: Your Honor, to advise the

1 Court, Mr. Stone advises me he wishes to withdraw his  
2 plea.

3 THE COURT: Why?

4 THE DEFENDANT: Well, Your Honor, due to the  
5 fact I really haven't had any treatment. I'm supposed to  
6 go to an evaluation.

7 Not only that, part of the agreement of this  
8 plea, the plea was that if I complete the program, the  
9 Turning Leaf program -- everybody in the program have  
10 done them at home, and it was part of the program that I  
11 get probation. And the plea -- I know it wasn't  
12 negotiated with the solicitor, but that was what I had  
13 intended. Thought I was going on probation.

14 I'm sorry. I apologize to the Court.

15 MS. KENNEDY: And, Your Honor, just for the  
16 purposes of clarification, what he is alluding to is the  
17 Turning Leaf program, and as I mentioned to the Court,  
18 the second class, where people who had completed the  
19 program got the benefit of a negotiated sentence,  
20 Mr. Stone has indicated to me, and I've talked to him at  
21 least twice since the plea this morning, that he thought  
22 that he would be given a probationary sentence.

23 I explained to him that it's my belief that  
24 the sentence that the Court imposed gave him the benefit  
25 of having participated in that program, but he asked that

1 he be allowed to come back before the Court. I asked  
2 that he be detained until this afternoon, and that's why  
3 we're here, Your Honor.

4 THE COURT: All right.

5 THE DEFENDANT: Also, Your Honor, I got a  
6 letter from Ms. Amy Barch, which is the founder of -- the  
7 director of the program, last night. She had me on her  
8 calender to be here two weeks -- and I just got the  
9 letter last night. I didn't bring it with me, but,  
10 evidently, she didn't have a notice to be here or  
11 something, and I think that things would have been a lot  
12 different. If she would have been here and my boss who's  
13 out of town, maybe -- he's out of town, and I only had a  
14 couple days' notice to notify these people, Your Honor.

15 I really apologize to the Court. I feel  
16 really strongly that he should have been here because all  
17 the times I had been in front of you before, or the  
18 Court, I have never had any support, and this was the  
19 only support, and I feel very strongly that I need  
20 support.

21 THE COURT: All right. I'll vacate your  
22 plea. Set it for trial. You're facing 15 years.

23 THE DEFENDANT: Yes, sir. Thank you.

24 MS. KENNEDY: Thank you, Your Honor.

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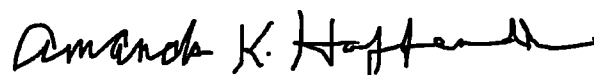
(Whereupon, the proceedings were concluded.)

- - -

I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 15th of July 2014.

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

October 6, 2017



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Circuit Court Reporter

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1     STATE OF SOUTH CAROLINA     )  
2     COUNTY OF CHARLESTON     ) Court of General Sessions  
3     \_\_\_\_\_ ) Case No. 2014-GS-10-03141  
4     STATE OF SOUTH CAROLINA     )  
5                                 vs.     ) Transcript of Record  
6     ALLEN FLETCHER STONE,     )  
7                                 Defendant.     )  
8     \_\_\_\_\_ ) DATE: August 11, 2014

9  
10     B E F O R E:

11             THE HONORABLE J.C. NICHOLSON, JR.

12  
13     A P P E A R A N C E:

14             THOMAS RICHARD WARING, II  
15             Attorney for the State

16             PATRICIA ANN KENNEDY  
17             Attorney for the Defendant

18                                     Karen V. Andersen, RMR, CRR  
19                                     Circuit Court Reporter  
20  
21  
22  
23  
24  
25

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1 MR. WARING: The case that was first up, Ms. Kennedy  
2 had something she wanted to discuss.

3 MS. KENNEDY: Your Honor, Mr. Stone is under the  
4 misconception that he has some sort of confidentiality issue  
5 and he's entitled to a continuance. I would ask the Court  
6 bring him up here, question him about that before we start  
7 the trial. He's willing to plead, Your Honor. He just  
8 doesn't "want to do an open plea".

9 THE COURT: What?

10 MS. KENNEDY: He doesn't want to do an open plea,  
11 one without recommendation. So he -- when I left him  
12 yesterday afternoon --

13 THE COURT: Is he here?

14 MS. KENNEDY: He's downstairs, Your Honor.

15 THE COURT: Let's get him up. Can you all get Allen  
16 Stone brought up, if you would. Let's get him brought up and  
17 we will go into whatever you want to go into.

18 MS. KENNEDY: Yes, Your Honor. Thank you. Your  
19 Honor.

20 (Whereupon a recess takes place.)

21 (Whereupon, the defendant is present.)

22 MR. WARING: We have Mr. Stone back out here for  
23 State vs. Allen Stone.

24 THE COURT: Okay. Ms. Kennedy, glad to hear from  
25 you.

1 MS. KENNEDY: Thank you, Your Honor. May it please  
2 the Court. Mr. Stone, as you know, is before you on burg'  
3 second, violent charge. Mr. Stone has always indicated to me  
4 a willingness to plead to these charges with the proviso that  
5 he either have some sort of recommendation, he just refused  
6 to do -- refuses to do an open plea.

7 The other issue that we had ongoing was his belief  
8 that his charge carried 85 percent. I met with him several  
9 times, explained to him that that simply is not the law. And  
10 he --

11 THE COURT: Burg' second, what's the max burg'  
12 second carries?

13 MS. KENNEDY: Up to 15.

14 THE COURT: So there's no 85 percent.

15 MS. KENNEDY: Exactly.

16 THE COURT: It's a serious, but it would be a third,  
17 probation.

18 MS. KENNEDY: Yes, sir.

19 THE COURT: Serious crime, but eligible for parole a  
20 third, not a fourth.

21 MS. KENNEDY: Your Honor, so when I left him  
22 yesterday afternoon, we were at the point where he indicated  
23 that he would enter a plea, Your Honor, if the Court assured  
24 him that it was not an 85 percent, which Your Honor has just  
25 kindly done.

1           This morning, he indicates to me or indicated to me  
2   that he, in no particular order, wanted to have a  
3   continuance; wanted to plead temporary insanity. We've  
4   discussed competency, criminal responsibility issues over and  
5   over again; wanted to have a bond reduction.

6           Those are all things he indicated to Your Honor  
7   Roger Young a couple of weeks ago when Judge Young found him  
8   competent, Your Honor.

9           THE COURT: Let me cut short to the chase. Okay?

10          MS. KENNEDY: Yes, sir.

11          THE COURT: Mr. Stone.

12          THE DEFENDANT: Yes, sir.

13          THE COURT: Your case is on the trial roster.

14          THE DEFENDANT: Yes, Your Honor.

15          THE COURT: We are going to draw a jury today or  
16   call a guilty plea.

17          THE DEFENDANT: I would like to have a  
18   continuance.

19          THE COURT: Your continuance request is denied. You  
20   are going to trial, do you understand, either by a jury or  
21   entering a guilty plea. Doesn't matter to the Court. The  
22   State is ready to go forward. It's on the trial roster, been  
23   on the trial roster, and we are going to draw a jury, there's  
24   a jury downstairs, or we are going to enter a guilty plea.  
25   So I will give you an opportunity to talk to your attorney.

1 It's not an 85 percent crime. The State is not making a  
2 recommendation. Your attorney cannot make them make a  
3 recommendation. Do you understand?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: So it's your decision. I'm going to  
6 give you an opportunity to talk to your attorney and then  
7 come back and tell me what you want to do. Do you  
8 understand?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Thank you very much.

11 MS. KENNEDY: Thank you, Your Honor.

12 THE COURT: Are you ready to -- I assume you are  
13 ready to go to trial?

14 MR. WARING: That's correct. The State is ready.

15 THE COURT: Where can she go to talk to him for a  
16 few minutes?

17 THE DEPUTY: Right in the booth.

18 MS. KENNEDY: Thank you, Your Honor.

19 THE COURT: Mr. Stone, before you go, do you have  
20 any more questions you want to ask the Court?

21 THE DEFENDANT: Yes, Your Honor. I ask for an  
22 evaluation, because I don't know what the heck is going on  
23 here.

24 THE COURT: That's already past you. Anything else?  
25 It's real simple what's going on. You are charged with burg'

1 second.

2 THE DEFENDANT: It's easy for y'all, but it's not to  
3 me.

4 THE COURT: Let me explain it to you real simple.  
5 Okay? You are charged with burglary second.

6 THE DEFENDANT: All I done is go in the building.

7 THE COURT: Do you want to listen to me or run your  
8 mouth? You asked me a question. Now listen. Do you  
9 understand? Are you going to listen?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Don't ask me a question if you are not  
12 going to shut up and listen. Do you understand? It's real  
13 simple. You are charged with burg' second. I don't know the  
14 facts in the case. It's on the trial roster. Judge Young  
15 has said you are competent. We are going to trial or you can  
16 enter a guilty plea. That's your choice.

17 THE DEFENDANT: Yes.

18 THE COURT: That's real simple. It's nothing  
19 complicated about that.

20 THE DEFENDANT: All right, sir.

21 THE COURT: Thank you very much.

22 MS. KENNEDY: Thank you, Your Honor.

23 MR. WARING: Thank you, Your Honor.

24 (Whereupon, a recess takes place.)

25 THE COURT: Mr. Stone has made a decision?

1 MS. KENNEDY: Yes, Your Honor. He wishes to enter a  
2 plea.

3 (Whereupon, defendant is present.)

4 MR. WARING: Your Honor, we've got Mr. Stone again.

5 THE COURT: Mr. Stone, raise your right hand.

6 (Whereupon, the defendant is sworn.)

7 THE COURT: Mr. Stone, how old are you?

8 THE DEFENDANT: 51.

9 THE COURT: How far did you go in school, Mr. Stone?

10 THE DEFENDANT: 8th grade.

11 THE COURT: Did you complete the 8th?

12 THE DEFENDANT: No, sir.

13 THE COURT: Completed the 7th?

14 THE DEFENDANT: Yes.

15 THE COURT: Are you able to read and write okay?

16 THE DEFENDANT: Pretty good, yes, sir.

17 THE COURT: Can you do math?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Have you ever -- have you been employed  
20 or worked anywhere?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: What type of work have you done?

23 THE DEFENDANT: Construction, carpentry, remodeling.

24 THE COURT: You work for yourself or someone else?

25 THE DEFENDANT: Yeah, a lot of different people,

1 contractors.

2 THE COURT: You work as a subcontractor?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you have a subcontractor's license?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you work under the general contractor  
7 license, I presume?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: What's your date of birth?

10 THE DEFENDANT: [REDACTED].

11 THE COURT: Social Security number?

12 THE DEFENDANT: [REDACTED].

13 THE COURT: Do you understand you are charged with  
14 burglary second?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: I believe you can receive up to 15  
17 years; do you understand?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you have any questions about the  
20 charge, the maximum time you can receive?

21 THE DEFENDANT: No, sir. I think we went over that  
22 enough.

23 THE COURT: Pardon?

24 THE DEFENDANT: I think we went over that enough.

25 THE COURT: Okay. Have you understood the

1 conversation you've had with your attorney?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you have any complaints to make  
4 against your attorney?

5 THE DEFENDANT: No.

6 THE COURT: Pardon?

7 THE DEFENDANT: No, sir.

8 THE COURT: Have you had any drugs or alcohol in the  
9 last 24 hours?

10 THE DEFENDANT: No, sir.

11 THE COURT: Are you taking any prescription  
12 medication?

13 THE DEFENDANT: Yeah.

14 THE COURT: What are you taking?

15 THE DEFENDANT: Respirol and Cogentin.

16 THE COURT: What are you taking them for?

17 THE DEFENDANT: Schizophrenia, bipolar and  
18 post-traumatic stress disorder.

19 THE COURT: Did you take medication today?

20 THE DEFENDANT: Yes.

21 THE COURT: How long have you been taking it?

22 THE DEFENDANT: Since '96, 1996; not the same  
23 medicine. I've been taking different medicine.

24 THE COURT: Does it help you when you are on the  
25 medication?

1 THE DEFENDANT: It helps me to be around people.

2 THE COURT: Were you on the medication when this  
3 occurred?

4 THE DEFENDANT: No, sir, I was drinking alcohol.

5 THE COURT: Self-medicating with alcohol?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Went off your prescription medication?

8 THE DEFENDANT: Yeah.

9 THE COURT: How often do you do that?

10 THE DEFENDANT: Every time I drink.

11 THE COURT: Every time you drink?

12 THE DEFENDANT: I get off my medicine.

13 THE COURT: How long have you been in jail?

14 THE DEFENDANT: Seven months.

15 MS. KENNEDY: 207 days, Your Honor.

16 THE COURT: How many?

17 MS. KENNEDY: 207 days.

18 THE COURT: Mr. Stone, do you understand this is a  
19 serious offense?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: If you receive two more serious  
22 offenses, you could go to jail for life without parole; do  
23 you understand?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Any question about it?

1 THE DEFENDANT: No, sir.

2 THE COURT: Do you understand under the Fifth  
3 Amendment of the Constitution, you have a right to remain  
4 silent? Do you understand? No one can make you testify  
5 against yourself; do you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: When you enter your guilty plea, you  
8 will acknowledge your guilt; do you understand?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: When you acknowledge your guilt, you are  
11 giving up the Fifth Amendment rights to remain silent; do you  
12 understand? Yes or no?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Are you willing to give up your Fifth  
15 Amendment rights to remain silent and enter your guilty plea  
16 today?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Has anybody promised you anything to get  
19 you to plead guilty?

20 THE DEFENDANT: No, sir.

21 THE COURT: Has anybody coerced you, intimidated you  
22 to make you plead guilty?

23 THE DEFENDANT: No, sir.

24 THE COURT: Have you had enough time to make your  
25 decision to plead guilty?

1 THE DEFENDANT: No, sir.

2 THE COURT: Pardon?

3 THE DEFENDANT: No, sir.

4 THE COURT: How much more time do you need to enter  
5 your plea?

6 THE DEFENDANT: Oh, no, I didn't hear what you  
7 said.

8 THE COURT: My question was, have you had enough  
9 time to make your decision to plead guilty?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Are you pleading guilty of your own free  
12 will and accord?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You understand you have a right to  
15 appeal your guilty plea 10 days from today?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand you are entitled to a  
18 jury trial?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you want a jury trial?

21 THE DEFENDANT: No, sir.

22 THE COURT: Have you understood my questions?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Have you answered them truthfully and  
25 correctly?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Ms. Kennedy, have you talked to  
3 Mr. Stone?

4 MS. KENNEDY: Yes, Your Honor.

5 THE COURT: Have you explained to him his right to a  
6 jury trial?

7 MS. KENNEDY: Yes, Your Honor, I have.

8 THE COURT: And have you explained to him his  
9 rights? I believe he said he was not competent. Did you  
10 explain to him what the legal competency requirements are?

11 MS. KENNEDY: Yes, Your Honor, numerous times.

12 THE COURT: And from your investigation, from you  
13 talking with your client, do you think he is competent?

14 MS. KENNEDY: Yes, Your Honor.

15 THE COURT: Do you think there's any need for a  
16 competency evaluation by the Department of Mental Health?

17 MS. KENNEDY: No, Your Honor.

18 THE COURT: Has he appeared to understand the  
19 conversations you have had?

20 MS. KENNEDY: Yes, Your Honor.

21 THE COURT: He just didn't want to agree with it; is  
22 that correct?

23 MS. KENNEDY: Yes, sir.

24 THE COURT: From your investigation and talking with  
25 your client, do you agree with his decision to plead guilty?

1 MS. KENNEDY: Yes, Your Honor, I do.

2 THE COURT: All right. Mr. Stone, how do you wish  
3 to plead?

4 THE DEFENDANT: Guilty, Your Honor.

5 THE COURT: Are you guilty?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: I'm going to ask the solicitor to give  
8 me the facts and I want you to listen. Okay?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And when he gives me the facts, I want  
11 you to, after he gives me the facts, I want you to tell me  
12 whether you agree with the facts or disagree. If you  
13 disagree, I want to know specifically what you disagree with.  
14 Okay?

15 THE DEFENDANT: Yes, sir.

16 MR. WARING: Thank you, Your Honor. May it please  
17 the Court.

18 Back on January 17th, 2014, around 1:30 in the  
19 morning, North Charleston Police Department officers  
20 responded to 4515 Spruill Avenue, which is a dentist office,  
21 in reference to an alarm going off. While checking the  
22 exterior of the business, an open door was located. When the  
23 officers went inside, they found the defendant, who was  
24 holding a knife and a bag containing various items belonging  
25 to the dentist's office. He did not have permission to be in

1 the building that night. An employee of the dentist office  
2 showed up shortly after that and confirmed that. And the  
3 items were turned back over to the dentist office.

4 He's got a very lengthy record, Your Honor.

5 THE COURT: What was in the bag?

6 MR. WARING: It had various items, Your Honor,  
7 Ibuprofen, syringes, things of that nature, just various  
8 things from the dentist office.

9 THE COURT: You don't have a list of them?

10 MR. WARING: I've got them written down in my notes,  
11 Your Honor, if you need them.

12 THE COURT: Mr. Stone, are those facts correct?

13 MS. KENNEDY: Yes, Your Honor.

14 THE COURT: Any of those facts you disagree with?

15 THE DEFENDANT: No, sir.

16 THE COURT: I find there's a factual basis for the  
17 plea. He's freely, voluntarily, knowingly, intelligently  
18 made a decision to plead guilty. He's had advice of his  
19 attorney. And all the charges have been met.

20 Again, I will be glad to hear you.

21 MS. KENNEDY: Thank you, Your Honor. May it please  
22 the Court. As Mr. Stone has indicated to you, Your Honor,  
23 he's 51 years of age. And he is -- during his adult working  
24 life, he worked construction. And as a matter of fact, Your  
25 Honor, one of his former employees, Wayne Crump, is here in

1 support of him today, and at the appropriate time, would like  
2 to address the Court.

3 Your Honor, when Mr. Stone advised you that he would  
4 drink alcohol and wouldn't take his medicine, he's been  
5 drinking alcohol since he's been about 11 years old. He  
6 started shortly after his father died. And he has continued  
7 on a pathway of doing well for a little while, then getting  
8 in trouble again, then spending sometime in the Department of  
9 Corrections.

10 Your Honor, while he was at the jail, he completed  
11 the Turning Leaf Program. I'm sure Your Honor is familiar  
12 with that. May I approach, Your Honor?

13 THE COURT: Yes, ma'am.

14 MS. KENNEDY: I would like to share his certificate,  
15 as well as a letter from Amy Barch, who runs that program.  
16 One of the things that happened to him, Your Honor, there  
17 have been two groups of Turning Leaf classes. The first  
18 group didn't get the benefit of what the second group got.  
19 And that is, the second group got the benefit of being able  
20 to have -- along with an agreement with the Solicitor's  
21 Office, having their charges amended to nonviolent charges so  
22 they could get probation.

23 I've talked with Amy Barch about Mr. Stone's  
24 participation in that program. He did really, really well.  
25 She has, as the letter would indicate, high hopes for him.

1           As he had indicated, he went into the building. He  
2 was drunk. Your Honor, it was 38 degrees that night. He  
3 says 19, but --

4           THE COURT: 19, okay.

5           MS. KENNEDY: It was cold. It was very cold. What  
6 he was wearing was sort of a flannel shirt and two T-shirts.  
7 He went in, he says, to get warm. Unfortunately, he did  
8 other things while he was in there.

9           Your Honor, he was before Judge Young on July the  
10 15th, and he entered a guilty plea then. And Judge Young  
11 gave him a sentence of 15 years suspended upon the service of  
12 five and five years probation.

13           And this is where I have to, and will, accept full  
14 responsibility for -- I tried to dissuade him. He entered  
15 the plea. All Mr. Stone heard was 15 years. Quite frankly,  
16 he thought he would get a long sentence suspended to  
17 probation. When he heard the 15 years, he became terribly  
18 confused, obviously, very upset, totally ignored or didn't  
19 hear the other part of the sentence. That was in the  
20 morning.

21           I spent a lot of time in the break. Mr. Stone said,  
22 I want to withdraw my plea, I want to withdraw my plea. And  
23 notwithstanding the number of times that I have explained to  
24 him before this, he was still, even up until this morning,  
25 Your Honor, until you told him, he was still under the

1 impression that it was an 85 percenter. And there was  
2 nothing I could do to dissuade him from that, even as  
3 recently as yesterday afternoon when we were at the jail.

4 Your Honor, he has -- some people would call him a  
5 career criminal, given his history that you will hear. It  
6 would appear that that would be the case. However, I think  
7 he's made an honest effort through the Turning Leaf Program.  
8 He just told me, I'm going to need help when I get out, I'm  
9 going to need the kind of support that Turning Leaf gave me.  
10 He's already been in touch with Ms. Barch, who's indicated  
11 that she will help him.

12 What I would ask the Court, Your Honor, to consider,  
13 and then I will let you hear from Mr. Crump, is fashioning  
14 that same sentence or a sentence similar to it that would  
15 give him some active time and then some probation at the end  
16 that he can, when he gets out --

17 THE COURT: 15/5 and 5 still hanging over his head,  
18 that's a separate charge?

19 MS. KENNEDY: No. Judge Young sentenced him to 15  
20 years provided upon the service of five years.

21 THE COURT: And five years probation?

22 MS. KENNEDY: Five years probation.

23 THE COURT: Was that withdrawn?

24 MR. WARING: It was vacated, Your Honor.

25 MS. KENNEDY: It was withdrawn.

1 THE COURT: That's this charge here?

2 MS. KENNEDY: Yes, sir. And that's what I'm trying  
3 to tell the Court. I, as his lawyer, failed to communicate  
4 that effectively. As you can tell, Mr. Stone can sometimes  
5 be a little stubborn. But even when he disagreed with me --

6 THE COURT: Well, he's been in the system enough to  
7 know how to be stubborn.

8 MS. KENNEDY: No doubt about that. No doubt about  
9 that. But even when we disagreed, and we would disagree  
10 sometimes, you know, yelling, disagree, or at least me  
11 yelling, I guess, more accurately, because I just wanted to,  
12 you know, somehow penetrate his mindset and say, no, this is  
13 the law. And as you eluded to, he's been in the system. So  
14 he says, oh, no, that's not the law. And I would take him a  
15 copy of the statute. We would calculate all the time. And,  
16 no, no, no, no.

17 I appreciate the effort of the Court this morning,  
18 because I think it finally got through to him. But I would  
19 simply ask that you fashion -- well, quite frankly, I would  
20 ask that you impose the same sentence Judge Young did. Quite  
21 candidly, I probably would have to say I don't think that's  
22 possible. But I would ask you to fashion some sort of  
23 sentence, a split sentence that would allow him to do what he  
24 wants to do.

25 He says and has said over and over again, I spent my

1 whole life in prison, I'm tired, I'm tired, I just want to  
2 get out and do the right thing. And I hope this time he will  
3 be able to do it.

4 Again, he's going to need a lot of help. And I  
5 think the split sentence, again with probation to follow,  
6 would be the most beneficial thing to him, Your Honor, and,  
7 quite frankly, to the community.

8 THE COURT: Give me a chance to read this letter, if  
9 you would.

10 Mr. Stone, how many years have you actually been  
11 incarcerated in Department of Corrections?

12 THE DEFENDANT: All my life, Your Honor.

13 THE COURT: You're 51. Hadn't been all your life.  
14 How many years have you actually been incarcerated?

15 THE DEFENDANT: In and out, back and forth in jail,  
16 prison, I'm tired of it, Your Honor.

17 THE COURT: Well, you know, if you stayed on your  
18 medication, you would have probably stayed out. When you get  
19 off your medication, you are going to be in trouble again. I  
20 don't think it's an abuse problem. It's a lack of taking  
21 your medication.

22 THE DEFENDANT: Yes, sir, you are right.

23 THE COURT: Because you are bipolar, and put on top  
24 of that, post-traumatic stress syndrome, put those two  
25 together, you can't function without your medication.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Abuse doesn't have anything to do with  
3 it.

4 THE DEFENDANT: You are right.

5 THE COURT: And you start self-medicating, cocaine,  
6 whatever you can get your hands on, alcohol, and you are down  
7 the tubes. It's a vicious cycle. When are you going to  
8 break the cycle?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Pardon?

11 THE DEFENDANT: Took this for me to realize that,  
12 what my problem is.

13 THE COURT: Well, what caused you to realize that?

14 THE DEFENDANT: I would rather leave drugs and  
15 everything else, just leave, breaking this stuff. I can't  
16 take one drink, one drink.

17 THE COURT: What's it going to take to get you off  
18 the alcohol and stay on your medication? Can you afford your  
19 medication?

20 THE DEFENDANT: Some kind of program like that  
21 helped me realize a lot, Your Honor.

22 THE COURT: You've never been through any drug  
23 program before?

24 THE DEFENDANT: No. I've been through ATU one time  
25 in prison. That feel like still in prison. Ain't done no

1 help, vocational rehabilitation, none of that. Every time I  
2 go out, they let me go, and I go straight to the beer cooler  
3 and celebrate for getting out of there. I don't need that.  
4 I been drinking all my life just about, from the time I was  
5 not in jail.

6 THE COURT: What do you think it's going to take to  
7 get you off the booze?

8 THE DEFENDANT: That program with Ms. Amy.

9 THE COURT: Do what?

10 THE DEFENDANT: Go into that program, Turning Leaf  
11 project. She said she would put me up in a boarding house  
12 two weeks free. I could pay the rent. Probably could get a  
13 job.

14 THE COURT: You are awful hard-headed.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You want to argue this morning?

17 THE DEFENDANT: No, sir. I apologize for that.

18 THE COURT: Huh?

19 THE DEFENDANT: I apologize.

20 THE COURT: What's it going to take to get through  
21 your hard head?

22 THE DEFENDANT: Some help.

23 THE COURT: What?

24 THE DEFENDANT: Some help.

25 THE COURT: Let me hear what kind of help he can get

1 with Amy Barch.

2 MS. KENNEDY: Your Honor, the program, as I  
3 understand it, he'd do that in jail. And then Ms. Barch was  
4 planning sort of -- for lack of a better term, an after-care  
5 program.

6 THE COURT: What do they do with them, take them in  
7 counseling?

8 MS. KENNEDY: Yes, sir. It's a --

9 THE COURT: I'm familiar with it in the jail; not  
10 familiar with it out of the jail.

11 MS. KENNEDY: It's a new one. It's still in its  
12 formative stages. But she has access to transitional  
13 housing. She's agreed to -- there's a subsequent letter that  
14 she wrote to Mr. Stone after we -- when we came to the  
15 conclusion or he came to the conclusion that he was going to  
16 have to spend sometime in the Department of Corrections, the  
17 letter basically lays out that she would help him find  
18 transitional housing, let him do work around the place.

19 Your Honor, Mr. Crump, his former employer, I've  
20 talked to him a number of times. I feel sure at the  
21 appropriate time --

22 THE COURT: So the program is setting up to be  
23 outpatient, not inpatient?

24 MS. KENNEDY: No, sir.

25 THE COURT: It's not like -- I can't think of some

1 of them, where they actually go live there.

2 MS. KENNEDY: Yes, sir. It's not a treatment  
3 facility. We tried to --

4 THE COURT: I wasn't thinking about a treatment  
5 facility. I can't think of the name of one where they take  
6 them in, grow their own food and vegetables.

7 MS. KENNEDY: The STRONG program?

8 THE COURT: Some of those floating around.

9 MS. KENNEDY: The STRONG program, Your Honor. I  
10 tried to get him into drug court, but he was precluded from  
11 participation in that because his charge is violent.

12 Tried to get him into mental health court, but he  
13 was precluded from participation in that because his main  
14 problem is substance abuse.

15 THE COURT: Mr. Stone, have you ever been on  
16 probation before?

17 THE DEFENDANT: Yes, sir, long time ago.

18 THE COURT: Did you ever successfully complete it?

19 THE DEFENDANT: I completed one time, yes, sir.

20 THE COURT: How long ago were you on it?

21 THE DEFENDANT: That was back in, I think, early  
22 2000.

23 THE COURT: Y'all got any records on him? Has he  
24 ever successfully completed?

25 PROBATION OFFICER: I would have to check. I don't

1 have my computer in front of me. I will check him out right  
2 now.

3 THE COURT: You want me to hear from his employer?  
4 I will be glad to hear you.

5 MR. CRUMP: My name is Wayne Crump. I retired two  
6 years ago from the Department of Defense. My wife and I, we  
7 live on Johns Island. And we were remodeling an old house  
8 that was her parents' house that we moved back into. And I  
9 was suggested Mr. Stone by a friend of ours. Mr. Stone was  
10 living in his trailer park, known as somebody that might want  
11 to help. I needed help doing some of the repairs. And I got  
12 him over his neighbor. And we worked together for about nine  
13 months. And he did an excellent job. He's a good carpenter,  
14 got very good skills.

15 I have been around construction all my life. I know  
16 a good carpenter from a bad carpenter. And I hired him as  
17 pretty much somebody to hand stuff to me, but we both worked  
18 together on this house. And we did a lot of work, tore down  
19 all the walls, put a big deck on the back, dock, all types of  
20 work around the house, painted it. And he did a good job for  
21 about nine months.

22 THE COURT: Are you in the construction business or  
23 he just helped you with this one job?

24 MR. CRUMP: He just helped me. He was referred to  
25 me from a friend. And I'm no longer in construction. Used

1 to be in construction business here in Charleston, converted  
2 to shipyard for a number of years. And when it closed, my  
3 wife and I transferred to Camp Lejeune, North Carolina.  
4 Retired there two years ago.

5 THE COURT: Anything else you want to tell me?

6 MR. CRUMP: No. When he was at our house, my wife  
7 could tell you, and she's not a person that easily accepts a  
8 lot of people around our house, I can trust him with  
9 anything. I'd leave him there to work. I've left him there  
10 before to take a break. We worked all during the summertime,  
11 last summer. I said, I'll take a break, be back shortly.  
12 Came back, couldn't find him. I looked everywhere. And I  
13 thought he was running off. He was under the housing putting  
14 in insulation, said he didn't feel right sitting around  
15 waiting.

16 I wouldn't have got done what I did without his  
17 help. And I used to have to go to Hanahan every morning to  
18 pick him up in traffic and bring him home in traffic. He was  
19 that much of a help.

20 Well, he wound up being a friend of mine. And  
21 that's why I'm here today. He helped me with my house. I  
22 like Allen.

23 THE COURT: Thank you so very much. Appreciate you  
24 being here.

25 Anyone else, Ms. Kennedy?

1 MS. KENNEDY: No, Your Honor.

2 THE COURT: Glad to hear you, Mr. Waring.

3 MR. WARING: Thank you, Your Honor. I'd just like  
4 to take you through his prior record. It's dating back to  
5 1980, he's got a DUI; house breaking from 1981; accessory to  
6 house breaking from 1992; burglary from 1983 and breaking and  
7 entering a motor vehicle and petty larceny; two grand  
8 larcenies and a trespassing from 1984; two grand larcenies  
9 from 1986; and a petty larceny, burglary second from 1989;  
10 use of vehicle without permission from 1990; burglary third,  
11 ABHAN, and malicious injury to property from 1991; four  
12 forgeries in 1992; petty larceny in 1995; petty larceny and  
13 grand larceny in 1998; burglary third in 2000, times two; and  
14 larceny, breaking and entering motor vehicle and trespassing,  
15 2001; burglary third, forgery and possession of stolen  
16 vehicle from 2003; burglary from 2005; burglary third from  
17 2006; trespassing and petty larceny, 2008; burglary third,  
18 second offense, from 2009; forgery times two, property crime  
19 enhancement and trespassing 2011; and trespassing from 2013.

20 Your Honor, Mr. Stone has demonstrated he can't  
21 function in normal society and follow the laws. I think  
22 that's great that he's getting himself some help. But at the  
23 same time, we've got honest citizens out there that we need  
24 to protect. I think sentence at the upper end of the  
25 spectrum will be more appropriate.

1 THE COURT: You think what? I'm sorry.

2 MR. WARING: At the upper end of the spectrum would  
3 be appropriate, considering his record. He's got  
4 approximately 10 burglaries on his record. He's demonstrated  
5 that he cannot function in society without breaking the law.  
6 So I think something in that upper spectrum would be  
7 appropriate.

8 MS. KENNEDY: Your Honor, if I may, they are not 10  
9 burglary convictions.

10 THE COURT: I'm sorry. Go ahead.

11 MS. KENNEDY: I'm sorry, Your Honor. I just would  
12 like the Court to know it's not 10 burglary convictions.

13 THE COURT: It's not 10?

14 MS. KENNEDY: Right. He's been arrested, but  
15 there's not 10 burglary convictions.

16 THE COURT: How many is there?

17 MS. KENNEDY: I think four, three -- three, Your  
18 Honor.

19 MR. WARING: Your Honor, I count at least eight.

20 THE COURT: I haven't seen the rap sheet. I don't  
21 know.

22 MS. KENNEDY: Well, Your Honor, some of it is out of  
23 state and really difficult to follow, because -- particularly  
24 those from Florida. But he's got -- in South carolina, he  
25 has four. That would be the only statement I would make in

1     that regard, Your Honor.

2             THE COURT: We will take a short break until I hear  
3     from probation.

4             (Whereupon, recess transpired.)

5             THE COURT: Mr. Stone, do you want to come around?  
6     All right. Mr. Stone, I'm going to give you a chance. Okay?

7             THE DEFENDANT: Yes, sir.

8             THE COURT: Putting you in jail over the years  
9     hadn't turned you around. You say this is the first  
10    opportunity you have had with Turning Leaf project because it  
11    turned your life around. Generally, I've seen people when  
12    you get somewhere between 45 and 50, 52, one of two things  
13    happen. They say, I want to be better; I want to turn my  
14    life around; or they wind up being a criminal the rest of  
15    their life and spend a long time in jail.

16            THE DEFENDANT: Yes.

17            THE COURT: Your record or papers sound serious.  
18    Most of it has just been petty stuff, stuff when you are  
19    drunk and do petty stuff. It's not actually where anyone's  
20    been harmed or hurt. Do you understand?

21            THE DEFENDANT: Yes, sir.

22            THE COURT: I'm going to take a chance on you. I  
23    don't know if you're telling the truth or not.

24            I sentence you to Department of Corrections for 15  
25    years, suspended to probation for five years. You listen to

1 the condition of probation. You understand?

2 THE DEFENDANT: Yes.

3 THE COURT: Complete the Turning Leaf outpatient  
4 program and continue on medication for bipolar and  
5 post-traumatic stress syndrome. Attend Mental Health. And  
6 I'm ordering Mental Health to check your blood for your  
7 prescription meds. Do you understand?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: I'm ordering random alcohol and drug  
10 testing. So it's up to you. You either participate in the  
11 Turning Leaf project. You participate with Mental Health.  
12 You take your meds. You take your blood test. Make sure you  
13 are taking medication.

14 If you take your medication, stay off the alcohol,  
15 you will turn your life around. If you don't, I will see you  
16 in six months. I'm going to take a special interest in you.

17 THE DEFENDANT: Thank you very much.

18 THE COURT: If you violate probation and they file a  
19 probation request on you, I'm going to ask them to make sure  
20 I'm the hearing judge. And I'm going to put you in jail for  
21 15 years. Do you understand?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: I'm going to take a special interest in  
24 you. And I'm going to hear the probation violation and I'm  
25 sitting here. It's not a threat. That's a promise. You are

1 going to jail for 15 years; do you understand?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Thank you very much.

4 (Court's Exhibit 1, Turning Leaf letter, was  
5 marked for identification.)

6 (Whereupon, proceedings are adjourned.)

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CERTIFICATE OF REPORTER

I, Karen V. Andersen, Registered Merit Reporter,  
Certified Realtime Reporter for the State of South Carolina  
at Large, do hereby certify that the foregoing transcript is  
a true, accurate and complete Transcript of Record of the  
proceedings.

I further certify that I am neither related to nor  
counsel for any party to the cause pending or interested in  
the events thereof.

  
Karen V. Andersen  
Registered Merit Reporter  
Certified Realtime Reporter

1 STATE OF SOUTH CAROLINA )  
2 COUNTY OF CHARLESTON, ) Court of General Sessions  
3 ) Case No. 2014-GS-10-03141  
4 )  
5 STATE OF SOUTH CAROLINA )  
6 vs. ) Transcript of Record  
7 ALLEN STONE, )  
8 Defendant. )  
9 DATE: July 26, 2016

8

9 B E F O R E:

10 The Honorable Kristi Lea Harrington

11

12 A P P E A R A N C E:

13 Agent Holmes  
14 Attorney for the State15 Kelly Kassis Solar  
16 Attorney for the Defendant

17

18 Karen V. Andersen, RMR, CRR  
19 Circuit Court Reporter

20

21

22

23

24

25

1 THE COURT: Are you Mr. Allen Stone?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Please swear the defendant.

4 (Whereupon, the defendant is sworn.)

5 AGENT HOLMES: Before you is Mr. Allen Stone. He  
6 was sentenced by Judge Nicholson on August 11th of 2014, his  
7 end date being 8/10/2019, 15 years suspended with five years  
8 probation.

9 Also, he was to make sure he checked in with mental  
10 health and to complete Turning Leaf outpatient program, and  
11 continue with his medication for PTSD and bipolar.

12 Your Honor, we are here today because he failed to  
13 report. He last reported on November 25th of 2015. He was  
14 instructed to report back December 2015, and he failed to do  
15 so.

16 Per conversation, because he was residing at 180  
17 Place, we found out that he was no longer there, changed his  
18 residence. He last was there on February the 23rd of 2016.

19 Also, he failed to provide his agent with any type  
20 of proof of employment. In addition, since being on  
21 probation, he was arrested eight times: One by Hanahan  
22 Police Department on February 8th of 2015, for violating town  
23 ordinance. He was also arrested on June 30th for public  
24 disorderly conduct. He was arrested again on July 8th of  
25 2015 for public drunk; on July 20th of 2015, for failure to

1 appear for court; November 13th of 2015, for burglary third  
2 charge, which he was originally arrested for back in October  
3 11th of 2013. He was also arrested on November 15th of 2015,  
4 for failure to appear as well; and an open container on March  
5 20th of 2016.

6 The agent is recommending a revocation and  
7 terminate. He was given credit for 127 days.

8 THE COURT: Mr. Stone, have you violated the terms  
9 and conditions of your probationary sentence?

10 THE DEFENDANT: Ma'am?

11 THE COURT: Have you violated your probation?

12 THE DEFENDANT: Yes, I have, ma'am.

13 THE COURT: Ms. Solar, happy to hear from you.

14 MS. SOLAR: Thank you, Your Honor. He was sentenced  
15 in 2014. He did report for over a year, but did stop  
16 reporting last November. He was living downtown at Tent  
17 City. It was very difficult for him to go anywhere.

18 He also has health problems, mental health problems,  
19 post-traumatic stress. He takes medications and goes to  
20 Charleston Mental Health when he can afford it.

21 He also has physical problems, head trauma. He was  
22 hit by a car in March and he also has financial issues.

23 Since December of 2015, he's been in and out of the  
24 hospital because of alcohol withdrawals. He relapsed. He's  
25 also been to M.U.S.C. in the Charleston Center. He has a

1 history of alcoholism and also bipolar. He has depression.

2 At the jail in March, he was placed on suicide watch  
3 because he felt that he was not getting his medication fast  
4 enough. And I have a report from the jail saying so, that he  
5 was placed on suicide watch.

6 Your Honor, for the incident where he was hit by a  
7 car, he does have an attorney. He's hoping to get a  
8 settlement from it. Hopefully that will help him with some  
9 of his moneys on probation.

10 He wants to quit drinking. He says that it's  
11 killing him. And, you know, obviously, he needs to get a  
12 handle on that very quickly.

13 And he has been in DAODAS since he has been at the  
14 jail. He entered into the program June 9th. I have a letter  
15 from Amanda Johnson, who is the clinical counselor. She says  
16 that he seems to be open about his issues and what needs to  
17 be addressed. He was not in denial and admitted he had  
18 issues with substances and realizes he needs help.

19 She said in the treatment group, he's mostly quiet,  
20 but he actively listens. And, of course, they are offering  
21 him eligible -- he's eligible for eight free sessions at the  
22 Charleston Center upon his release. And I have that letter  
23 here if Your Honor would like to see it.

24 Your Honor, he's facing a great deal of time, but I  
25 think he's doing the best that he can do with where he can

1 live, with his mental health and his physical health  
2 problems. He doesn't owe restitution. I don't believe he  
3 owes restitution. And he feels that he can fulfill the  
4 requirements of probation.

5 I have been in touch with his attorney, or at least  
6 the paralegal for his attorney, for the settlement. And they  
7 are actively on the case. It takes awhile, of course. Your  
8 Honor, we are hoping that you would consider at the very  
9 least allowing him to finish the DAODAS program at the jail  
10 possibly and allowing him to finish his probation.

11 He will have a place to stay at the shelter. I  
12 contacted Jeff Youngman regarding his situation. And he will  
13 have a place to stay if a bed space is available.

14 THE COURT: What do you wish to tell me, sir?

15 THE DEFENDANT: Yes, ma'am. I wrote my agent a  
16 letter. I knew I was in violation. I wrote him a letter in  
17 March. And I didn't know I was violating until February  
18 23rd, something like that.

19 Anyway, like I said in my group, I ain't taking this  
20 program to get out of jail. I'm taking it because I need  
21 help. I'm taking it to stay out of jail. I have a really  
22 bad problem. I almost died in M.U.S.C. several times. I  
23 really did. I almost committed suicide. The doctor come in  
24 my room in the emergency room and TV cord was around my neck.  
25 And they put me in IOP. So most of this time when I wasn't

1 in jail, I was just in IOP getting help.

2 And I really need help. I'm too old for this. I've  
3 got so many medical issues. I'm 53 and I've been dead three  
4 or four times and keep coming back. And God has been with  
5 me. I have no family. I have -- I have good experience in  
6 carpentry. And, you know, my plan, I have got plan set if I  
7 get out of here and I do right.

8 If I drink again, I am going to die. I have liver  
9 cancer, they told me. I got goals set. And I'm certified in  
10 carpentry and a painter. And the people on King Street,  
11 homeless, I've been homeless before, and I went by, with my  
12 skills, I could help those people and make some money and  
13 make a life by myself.

14 My boss ain't here, you know, but he would be here.  
15 I called him and he knows. He's probably somewhere around,  
16 but I worked for him in 2013. I remodeled his house for nine  
17 months. And I just relapsed, Your Honor. And I just  
18 couldn't stop.

19 I'm learning in DAODAS now that, with all the 12  
20 steps and 12 conditions, I'm reading that, and I'm learning  
21 that I'm sick and tired of being sick and tired. I want to  
22 live now.

23 My blood sugar was 40. I ain't even diabetic.  
24 Every time I drink, I didn't eat. And I wind up in the  
25 hospital. I've been in the hospital more times than I've

1    been in jail. And a lot of times, they got me for public  
2    drunk, walking down the street. I wasn't even drunk. I was  
3    just so medicated. I was pushing a wheelchair and I fell.  
4    That's honest truth. I really didn't mean to. And I really  
5    wasn't -- I mean, I just got scared and don't report, but I  
6    called.

7            Every time I went to the hospital, I called  
8    Mr. Carter, the head supervisor of probation office. I  
9    called him when I went to IOP, something at IOP and stood in  
10   psychiatric suicide.

11           And when I drink, I get suicidal. And I don't ever  
12   want to drink again. I want to help some people. I'm in my  
13   group now. I'm learning. I've only been in there five weeks  
14   now. And I would like to finish the program because it's  
15   really helping me. And they are giving me eight free  
16   meetings at Charleston Center, you know.

17           And I wasn't going to my meetings like I should have  
18   been. I should have been going. I did do the 90 days in the  
19   Shield Ministries program. They paid for 90 days, and I  
20   relapsed.

21           I'm sorry, Your Honor. I just need some help.

22           THE COURT: Ms. Solar, anything else I need to know?

23           MS. SOLAR: No, Your Honor.

24           THE COURT: Agent Holmes, anything further?

25           AGENT HOLMES: Your Honor, he would be a perfect

1 candidate for mental health court, but because of the charge,  
2 he cannot get into mental health court. He did complete  
3 Turning Leaf program. He completed that.

4 THE COURT: When did he complete that?

5 AGENT HOLMES: He completed that back in 2014.

6 THE COURT: He's had some arrests then?

7 AGENT HOLMES: Yes, he's had several arrests.

8 THE COURT: Anything further, Ms. Solar?

9 MS. SOLAR: No, Your Honor.

10 THE COURT: I find that you have willfully and  
11 substantially violated the term of your probationary  
12 sentence. I'll give you credit for any time that you have  
13 served. Revoke in full. Terminate the probation after your  
14 completion. Waive all fees, fines and costs. Good luck to  
15 you, sir.

16 THE DEFENDANT: Thank you very much, Judge.

17 THE COURT: No administrative monitoring.

18 AGENT HOLMES: You said revoke in full, correct?

19 THE COURT: Revoke in full.

20 (Whereupon, the proceedings are adjourned.)  
21  
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CERTIFICATE OF REPORTER

I, Karen V. Andersen, Registered Merit Reporter,  
Certified Realtime Reporter for the State of South Carolina  
at Large, do hereby certify that the foregoing transcript is  
a true, accurate and complete Transcript of Record of the  
proceedings.

I further certify that I am neither related to nor  
counsel for any party to the cause pending or interested in  
the events thereof.

  
Karen V. Andersen  
Registered Merit Reporter  
Certified Realtime Reporter

1 STATE OF SOUTH CAROLINA ) GENERAL SESSIONS COURT  
 2 COUNTY OF CHARLESTON ) CASE NO. 2014-GS-10-03141

3  
 4 STATE OF SOUTH )  
 CAROLINA, )  
 5 Plaintiff, ) Transcript of Record  
 6 vs. )  
 7 ALLEN STONE, ) Date: December 5, 2016  
 8 Defendant. )

9 \* \* \* \* \*

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B E F O R E:

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The Honorable Kristi L.  
 Harrington

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Denise J. Lauder, RPR

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Ninth Judicial Circuit

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1                   A P P E A R A N C E S

2

3     STATE OF SOUTH CAROLINA DEPARTMENT OF PROBATION,

4     PAROLE AND PARDON SERVICES:

5             KEISHA HOLMES, AGENT

6             4050 Bridge View Drive

7             Suite 100

8             North Charleston, SC 29405

9

10    REPRESENTING THE DEFENDANT:

11            KELLY SOLAR, ESQUIRE

12            Public Defender's Office

13            101 Meeting Street

14            Charleston, SC 29401

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| 1 | INDEX                        |
| 2 | Page No.                     |
| 3 | Proceedings.....             |
| 4 | Certificate of Reporter..... |

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9 INDEX OF EXHIBITS

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11 (No exhibits were offered or  
12 marked for identification.)

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1                   (The following proceedings were held  
2   December 5, 2016, at 12:25 p.m., in front of Judge  
3   Kristi Harrington, Charleston County General  
4   Sessions Court.)

5                   PROBATION: Your Honor, the case of  
6   Allen Stone. This is a motion by Ms. Solar. We  
7   spoke with you previously in chambers.

8                   THE COURT: Has he been transported?

9                   PROBATION: He has.

10                  THE COURT: Let's take a short comfort  
11   break -- hold onto that -- about seven minutes.

12                  (A recess transpired.)

13                                 ALLEN STONE,

14   being first duly sworn, testified as follows:

15                  THE COURT: Ms. Solar, this is your  
16   motion.

17                  MS. SOLAR: Yes, Your Honor.

18                  THE COURT: Happy to hear from you.

19                  MS. SOLAR: Thank you, Your Honor. As  
20   we stated in our motion, the underlying charge was  
21   burglary of a dental office. The victim has  
22   provided us with an affidavit that states that he  
23   is not opposed to reduction of the sentence as long  
24   as Mr. Stone receives alcohol treatment.

25                  If you will recall, this was a

1 probation violation hearing; he was facing 15 years  
2 in prison and he was revoked in full. Also,  
3 Probation does not oppose the reduction. The  
4 original recommendation was a one-year revocation  
5 with credit for time served and continued  
6 probation.

7 I will tell you that Mr. Stone says to  
8 me that I did not mention that there was a  
9 recommendation in the case.

10 THE COURT: I have the paperwork.

11 MS. SOLAR: I agree -- I agree I told  
12 him that. He said it wasn't said in open court. I  
13 thought I had, but perhaps it wasn't said in open  
14 court and he wanted me to mention that to you.

15 He's 53 years old, he has a history of  
16 alcoholism and depression, and we ask that you  
17 would reconsider your imposed sentence and sentence  
18 him to the recommended sentence by Probation, which  
19 was a one-year revocation and continue. And he  
20 would like to address you as well, Your Honor.

21 THE COURT: Happy to hear from you,  
22 Mr. Stone.

23 THE DEFENDANT: Yes, ma'am. Your  
24 Honor, there's a few issues that I would like to  
25 present, but I think Ms. Kelly had took care of a

1 lot of things. There was another felony charge  
2 that I had prior to that probation that was brought  
3 up to you and said that -- stated that I committed  
4 that while I was on probation, which it didn't  
5 happen. It happened prior.

6 So, therefore, I went before Mr. Dennis  
7 -- Judge Dennis and he handled that. Patricia  
8 Kennedy was supposed to handle that with this case  
9 charge, probation violation, and it never happened.  
10 So -- so I didn't commit no felonies during my  
11 probation period, Your Honor.

12 I did commit a couple of public intox  
13 and an open container charge which was -- I had  
14 failure to appears on those while I was in the  
15 Berkeley County jail waiting to get rid of that  
16 prior offense, see. That's why I had the open --  
17 the failure to appear and the stuff that they had  
18 said I had been arrested so many times while I was  
19 on probation.

20 And, Your Honor, I had relapses. I  
21 went through -- one more thing. I didn't go  
22 through the Turning Leaf release program, because  
23 the Turning Leaf release program had not started  
24 yet at 2014. I went to the Shield Ministry  
25 program, which I successfully completed. And,

1   also, the Public Defender, Ashley Pennington,  
2   conducted the every Friday night meeting there. He  
3   come and picked me up and took me to the meetings  
4   there so he knows. The State said I violated the  
5   Turning Leaf program. I didn't go to that program.  
6   I went to the Shield Ministry. There was a mix-up  
7   in that also, Your Honor.

8                   And I just would appreciate your  
9   consideration, Your Honor. And I have written to  
10  the New Beginning program, Ms. Dottie, that had  
11  been with the Department of Probation, Parole and  
12  Pardon Services for 20 years, and that she has  
13  accepted me into her New Beginning program. Will  
14  you read that?

15                   MS. SOLAR: Your Honor, may I approach?

16                   THE COURT: You may.

17                   Anything else?

18                   THE DEFENDANT: No, ma'am.

19                   MS. SOLAR: No, Your Honor.

20                   THE COURT: Anything further from  
21  Probation?

22                   PROBATION: Your Honor, as Ms. Solar  
23  stated, I was not opposed to her filing of the  
24  motion. In reference to the sentencing, I left  
25  that up to the Court when I presented the case.

1 The fact remained that while on supervision, be it  
2 a felony or misdemeanor, he was arrested eight  
3 times while on supervision.

4 So, Your Honor, as I stated during the  
5 time of the revocation hearing, we are recommending  
6 revocation, and you stated that you wanted 15 years  
7 so we are in agreement --

8 THE COURT: That's what Judge  
9 Nicholson gave him, correct?

10 PROBATION: That's correct, Your Honor.

11 THE COURT: Anything further, Ms.  
12 Solar?

13 MS. SOLAR: No, Your Honor. As long as  
14 it was understood that the hearing officer for  
15 Probation was only asking for one year, revocation  
16 of one year.

17 THE COURT: Anything further,  
18 Mr. Stone?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: I will take the matter  
21 under advisement. Good luck to you. Thank you.

22 (These proceedings were concluded at  
23 12:39 p.m.)

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CERTIFICATE OF REPORTER

I, Carol Denise Lauder, Registered  
Professional Reporter and Notary Public for the  
State of South Carolina at Large, do hereby certify  
that the foregoing transcript is a true, accurate,  
and complete record.

I further certify that I am neither related  
to nor counsel for any party to the cause pending  
or interested in the events thereof.

Witness my hand, I have hereunto affixed my  
official seal this 25th day of March, 2017 at  
Charleston, Charleston County, South Carolina.

---

Carol Denise Lauder  
Registered Professional  
Reporter, CP  
My Commission expires  
August 2, 2017

## STATE OF SOUTH CAROLINA

COUNTY OF Charleston  
STATE VS.Allen Fletcher Stone

AKA:

Race: WHITE Sex: M Age: 51DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL#: [REDACTED] SID#: SC00308656\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
TO: Burglary / Burglary (Violent) (After 06/20/85) - Second degreein violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Richard Waring SC Bar# [REDACTED] Defendant Allen Fletcher Stone Attorney for Defendant Pat. A. [REDACTED] SC Bar# 7915WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 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 paymentof \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for 5months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-55 (Criminal  
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition. MENTAL HEALTH ISSPECIAL CONDITIONS: order to check for☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS \_\_\_\_\_

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

| *Fine:                                 |         | \$        |
|----------------------------------------|---------|-----------|
| § 14-1-206 (Assessments 107.5 %)       |         | \$        |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100.00 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$        |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$        |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$        |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$ 500.00 |
| § 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 | \$        |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5.00   |
| 3% to County (if paid in installments) |         | \$ 18.90  |
| TOTAL                                  |         | \$ 648.90 |

Clerk of Court/ Deputy Clerk Aulson-HuffmanCourt Reporter: Karen Andersen

ATTEST: A TRUE COPY

IN THE COURT OF GENERAL SESSIONS

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS1003141A/W#: 2014A1010200294Date of Offense: 1/17/2014S.C. Code § : 16-11-0312(B)CDR Code #: 0086

## SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

(15)

in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45  
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Richard Waring SC Bar# [REDACTED] Defendant Allen Fletcher Stone Attorney for Defendant Pat. A. [REDACTED] SC Bar# 7915WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 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 paymentof \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for 5months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied  
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-55 (Criminal  
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition. MENTAL HEALTH ISSPECIAL CONDITIONS: order to check for☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS \_\_\_\_\_

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

| *Fine:                                 |         | \$        |
|----------------------------------------|---------|-----------|
| § 14-1-206 (Assessments 107.5 %)       |         | \$        |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ 100.00 |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$        |
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| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$        |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5.00   |
| 3% to County (if paid in installments) |         | \$ 18.90  |
| TOTAL                                  |         | \$ 648.90 |

PTUP blood for prescribed  
\_\_\_\_\_ days/hours Public Service Employment MEETS.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: complete turningLEAST out of 15program for 15modification for 15post traumatic stress☐ Appointed PD or appointed other counsel SYNOPSIS§ 47.12 requires \$500 be paid to Clerk HEALTHduring probation. MENTAL HEALTHPresiding Judge [Signature]Judge Code: [Signature]Sentence Date: 1/17/14

Form 16,1- Arrest Warrant  
Form Approved by  
SC Attorney General  
Section 17-13-160  
March 16, 1978

**STATE OF SOUTH CAROLINA**  
COUNTY OF CHARLESTON

Probation

**ARREST WARRANT**

Indictment Number 14-GS-10-03141

Warrant Number W-10-16-0102

State Identification No. (SID) 00308658

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF NORTH CHARLESTON, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that ALLEN FLETCHER STONE, did on the 23 day of February, 2016 violate the criminal laws of the State of South Carolina as set forth below:

**DESCRIPTION OF OFFENSE:**

By violating all or parts of conditions 1,2,5,6,7,9,10 and special conditions as ordered under IND# 14-GS-10-03141 by the Charleston County Court of General Sessions.

Now, therefore, you are empowered and directed to arrest the said defendant and bring ALLEN FLETCHER STONE 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. Done at NORTH CHARLESTON, S. C. this 23 day of February, 2016.

  
Signature of Probation and Parole Agent (L.S.)

**County of CHARLESTON**

**STATE OF SOUTH CAROLINA**

**AFFIDAVIT**

Personally appeared before me, one Christian Aulbach, who, first being duly sworn, deposes and says that ALLEN FLETCHER STONE did within this County and State on the 23 day of February, 2016, violate the criminal laws of the State of South Carolina in the following particulars:

**DESCRIPTION OF OFFENSE:**

By violating all or parts of conditions 1,2,5,6,7,9,10 and special conditions as ordered under IND# 14-GS-10-03141 by the Charleston County Court of General Sessions.

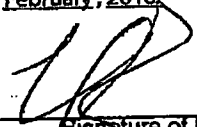
The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

By violating condition #1, the offender last reported on 11-25-15 and was instructed to report back on 12-2-15 but failed to do so and has not been seen since. By violating condition #2, per a telephone conversation with 180 Place Staff on 2-23-16, the offender has not resided at the shelter since March 2015. The offender failed to notify his agent of a change in residence. By violating condition #5, the offender has failed to provide proof of employment at his agents request. By violating condition #6, the offender has been arrested 6 times since being placed on probation and has failed to notify his agent of such arrests or report following his release from the detention center. The offender was arrested on 6-30-15 for Disorderly Conduct by NCPD. He was arrested again on 7-8-15 for Public Drunk by the City of Charleston. On 7-20-15 he was arrested for Failing to Appear in Court and on 11-13-15 he was convicted on a Burglary 3rd charge which he originally arrested for on 10-11-13. The offender was arrested again on 11-15-15 for Failure to Appear and on 2-21-16 he was arrested for

Sworn to and Subscribed before me  
this 23 day of February, 2016.

  
Affiant

Address: 4050 BRIDGE VIEW DRIVE  
SUITE 100  
NORTH CHARLESTON, SC 29405-7464  
CHARLESTON  
USA  
(843) 740-1553

  
Signature of Notary Public

(L.S.)

My Commission Expires

*Chief Minister*  
*25 Walnut St*  
*Cher. SC 29401*

RETURN

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

Allen Stone

on the 21 day of March 2016

GA S. J. [Signature]

Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

Signature of Judge

(L.S.)

STATE OF SOUTH CAROLINA  
COUNTY OF  
CHARLESTON

THE STATE  
against

ALLEN FLETCHER STONE

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 2/23/2016

Officer and Agency: SC Department of Probation,  
Parole and Pardon Services

Christian Aulbach

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name ALLEN FLETCHER STONE  
Address Unknown  
CHARLESTON, SC  
Phone [Redacted]  
Sex Male Race White Height 504  
Weight 180 Birth date [Redacted]  
Social Security Number [Redacted]

INFORMATION ON WITNESSES

Name  
Address  
Phone

Name  
Address  
Phone

Name  
Address  
Phone

Name  
Address  
Phone

PRELIMINARY HEARING held by

Magistrate  
on  
with

Attorney for the Defendant.

Decision  
BAIL

Date Set  
Magistrate  
Amount  
Surety

## Addendum

Public Drunk and Congregating for Unlawful Purpose. By violating condition #7 and #9, the offender has failed to fulfill his financial obligations and is in arrears 800.00 on his supervision fee with an account balance of \$2,900.00, in arrears \$198.00 on his court ordered fines with an account balance of \$648.90, in arrears \$18.00 on drug test fee with an account balance of \$20.00. By violating condition #10, the offender has failed to follow the advice and instructions of his supervising agent.

Sworn to and Subscribed before me  
this 23 day of February, 2016.

Aulbad  
Affiant

[Signature]  
Signature of Notary Public

[Signature]  
My Commission Expires

South Carolina Department of Probation, Parole, and Pardon Services  
Notice of Administrative Hearing

STATE OF SOUTH CAROLINA

VS.

Offender's Name

ALLEN FLETCHER STONE

SID #

00308656

WARRANT/CITATION ISSUE DATE:

02/23/2016

HEARING INFORMATION

Date:

05/17/2016

Time:

9:00

☒ AM

☐ PM

Location:

Charleston County Detention Center  
NORTH CHARLESTON, SC 29405

You are notified that an administrative hearing will be conducted by a neutral Hearing Officer on the above mentioned date, time, and location (SEE BOX TO RIGHT). This hearing is on the charges that are set forth in the warrant or citation issued on the above mentioned issue date (SEE BOX TO LEFT), which was served on you.

You may have an attorney at your expense represent you at the administrative hearing. The South Carolina Department of Probation, Parole and Pardon Services is not required to provide you with counsel in this matter. If you cannot afford to hire an attorney, you may at your hearing, petition for an appointed attorney. An attorney will not be appointed except in the most extraordinary circumstances. You may have witnesses present to testify for you. It is your responsibility to have your witnesses and attorney present. You have the right to question any person making allegations against you at the hearing.

**YOU ARE REQUIRED TO BE PRESENT AT YOUR ADMINISTRATIVE HEARING AS SCHEDULED ABOVE.  
IF YOU DO NOT APPEAR, THE HEARING WILL BE HELD IN YOUR ABSENCE.**

I UNDERSTAND THAT I MUST BE AT MY ADMINISTRATIVE HEARING AND I HAVE RECEIVED A COPY OF THIS NOTICE.

Offender's Signature

*Allen Stone*

Date

4-26-16

Witness's Signature

*Aulbach*

Date

4-26-16

☐ Waiver:

I agree to waive 48 hour written notice of my hearing.

Offender's Signature

Date

Agent's Signature

Date

South Carolina Department of Probation, Parole and Pardon Services  
Summary of Administrative Hearing

---

Offender: ALLEN STONE

SID#: 00308656

Location: CHARLESTON COUNTY DETENTION CENTER

Date: MAY 17, 2016

Time: 9:00 A.M.

Recording#: KN05172016

**Persons in Attendance**

| Name              | Relationship                    |
|-------------------|---------------------------------|
| KATHLEEN NADOBNY  | ADMINISTRATIVE HEARINGS OFFICER |
| CHRISTIAN AULBACH | AGENT                           |
| ALLEN STONE       | PROBATIONER                     |

---

**Hearing Officer's Findings:**

I find that ALLEN STONE violated conditions 1, 2, 5, 6, 7, 9, 10, and special conditions as set forth in the affidavit dated FEBRUARY 23, 2016; such conditions having been contained in the order of probation accepted by the defendant in writing on AUGUST 11, 2014.

I find that Allen Stone failed to report as instructed. Mr. Stone failed to report on December 2, 2015. He last reported on November 25, 2015. Agent Aulbach located Mr. Stone in the Charleston County Detention Center on March 21, 2016. Mr. Stone testified that he stopped reporting because he relapsed and was scared to report.

I find that Allen Stone moved without the consent of his agent. On February 23, 2016, Agent Aulbach contacted One80 Place, where Mr. Stone was reportedly residing, and learned Mr. Stone had not resided at the facility since March 2015. Mr. Stone testified that he moved to Tent City, but still utilized the services offered by One80 Place.

I find that Allen Stone failed to work diligently at a lawful occupation. Mr. Stone failed to provide proof of employment to his agent.

I find that Allen Stone failed to immediately contact his agent if ever arrested or questioned by a law enforcement official for any reason whatsoever.

Mr. Stone was arrested on June 30, 2015, for Public Disorderly Conduct by the North Charleston Police Department; however, he failed to notify his agent accordingly.

Mr. Stone was arrested on July 8, 2015, for Public Drunk by the Charleston Police Department; however, he failed to notify his agent accordingly.

Mr. Stone was arrested on July 20, 2015, for Failure to Appear by the Charleston Police Department; however, he failed to notify his agent accordingly.

SCDPPPS Form 1193 (Template)

## South Carolina Department of Probation, Parole and Pardon Services

### Summary of Administrative Hearing

Mr. Stone was arrested on November 15, 2015, for Failure to Appear by the Charleston Police Department; however, he failed to notify his agent accordingly.

Mr. Stone was arrested on February 21, 2016, for Public Disorderly Conduct by the Charleston Police Department; however, he failed to notify his agent accordingly.

I find that Mr. Stone failed to pay his supervision fee, drug test fee, and fine. Mr. Stone was \$800.00 in arrears on his supervision fee, \$20.00 in arrears on his drug test fee, and \$648.90 in arrears on his fine on February 23, 2016.

I find that the aforementioned violations constitute a failure to follow the advice and instructions of the supervising agent. I base these findings on ALLEN STONE'S own admissions and the testimony submitted by Agent CHRISTIAN AULBACH.

#### Hearing Officer's Conclusions:

I conclude from the aforementioned violations and testimony of Mr. Stone that his probation should be partially revoked. As detailed herein, Mr. Stone has been on probation since [redacted] and was located in [redacted] Agent Aulbach was not apprised of any of the arrests. Mr. Stone is [redacted] on November 15, 2015, and was located in the Charleston County Detention Center after yet another arrest. [redacted] Mr. Stone has stopped reporting to his agent. He also testified he was hospitalized in January, February, and March, however, his computerized criminal history shows arrests in two of those months so he was hospitalized for the [redacted] for the [redacted] three months. His computerized criminal history also shows Mr. Stone has been on probation at least a dozen times, with no abatement to his criminal activity. This period of supervision appears to be no different. In light of the foregoing, a partial revocation is recommended.

#### Hearing Officer's Recommendation:

[redacted] thereafter, continue on probation.

Respectfully submitted,

Kathleen Nadobny, CHO  
Administrative Hearings Officer

STATE OF SOUTH CAROLINA

County of Charleston  
STATE VS.

Allen Stone 11/27/14  
AKA: \_\_\_\_\_  
Race: W Sex: M  
DOB: \_\_\_\_\_  
SSN: \_\_\_\_\_  
SID#: 00308556

IN THE COURT OF GENERAL SESSIONS

Indictment Number: 14-GS-10-03141  
Probation C/W#s: W-10-16-0102  
Name of Original Offense: Burglary 2nd Violent  
Original A/W#: 2014A1010200294  
Date of Original Offense: 1-17-14  
Conviction S.C. Code §: 16-11-0312(B)  
Conviction CDR Code #: 0101816  
Original Sentence: 15 yrs ss 5 yrs prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 8/11/14 in the Court of General Sessions of Charleston County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on \_\_\_\_\_, as set forth in the attached warrant(s) or citation(s) dated \_\_\_\_\_. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)  
1, 2, 5, 6, 7, 9, 10

Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 15 months/years the remainder of the original sentence, and/or pay \$ 0.
- ☐ the suspended sentence be revoked and the above named defendant be required to serve \_\_\_\_\_ months/years of the original sentence and/or pay \$ \_\_\_\_\_; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☐ the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- ☒ Financial Obligations: Order satisfies: ☒ Department fees (arrearage) ☐ Civil judgment: ☐ Department fees  
☐ Fines and other fees (arrearage/balance) ☐ Fines and other fees  
☐ Restitution (and 20%) (arrearage/balance) ☐ Restitution (and 20%)
- ☒ Additional Conditions ordered by the Court: CTS. Revoke in full. Terminate probation. No administrative monitoring. No CI for money.
- ☒ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- ☐ The defendant has previously served \_\_\_\_\_ months/years on this sentence.  
(split sentence time and/or prior partial revocation time)
- ☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 27th day of July, 2016  
Charleston, SC

Presiding Judge AK

Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper, or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

unavailable to sign  
ATTEST: A TRUE COPY  
Signed this 26 day of July, 2016 JULIE ARMSTRONG (SEAL) Charleston SC

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 )  
 COUNTY OF CHARLESTON ) Indictment No. 14-GS-10-03141

**Probation/ Community Supervision  
 Program (CSP) Violation  
 Warrant/Citation # [Warrant/Citation #]**

State of South Carolina, )

v. )

Allen Stone, )

Offender. )

W-10-16-0102

**NOTICE OF PROBATION /CSP VIOLATION  
 HEARING AND ACKNOWLEDGMENT  
 OF NOTICE**

You are hereby directed to appear at a Probation/CSP Violation Hearing in General Sessions on August 8th, 2016 at 9:00 am / pm in the Charleston County Courthouse, 100 BROAD STREET, South Carolina.

You may have an attorney represent you at this hearing. If you cannot afford an attorney and you desire the representation of the Charleston County Public Defender, you must apply for an appointed attorney with that office. If you choose to appear at the hearing without an attorney, you may be required to represent yourself. You are hereby advised that there are dangers and disadvantages to self-representation. An attorney may better understand courtroom procedure and may be better able to think of and present defenses to your violations. By appearing without an attorney you are acknowledging these dangers but are knowingly and voluntarily choosing to proceed without counsel.

At the violation hearing you will have an opportunity to speak, and you may present witnesses or documentary evidence on your behalf. If requested, you will also have an opportunity to confront and cross-examine any witnesses called to testify against you; however, the Department may elect to present affidavits of witnesses or police officers in lieu of testimony. State v. Pauling (Ct. App. 2006). It is your responsibility to have your witnesses and attorney present. If you are released on bond prior to your hearing date, you must report to the Probation Office immediately upon your release.

You are required to be present at your hearing as scheduled above. If you do not appear, a bench warrant or a failure to appear warrant will be issued for your arrest. Furthermore, the Court may choose to proceed with the hearing in your absence. This directive remains in effect until you are granted leave by the Court.

This directive has been read to me and I have been provided with a copy. I was also given an opportunity to ask questions about this directive before it was signed.

5-17-16

Date

Allen Stone  
 Offender's Signature

PUBLIC DEFENDER: 958-1850

CAulbach

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA

Plaintiff,

vs.

Allen Stone,

Defendant.

) IN THE COURT OF GENERAL SESSIONS  
 ) FOR THE NINTH JUDICIAL CIRCUIT

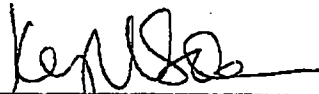
Warrant No(s): W10160102

Charge(s): Probation Violation

MOTION FOR  
 RECONSIDERATION OF SENTENCE

PLEASE TAKE NOTICE that the above captioned defendant, by and through the undersigned attorney, moves this Honorable Court for a reconsideration of the sentence imposed upon the defendant on July 26, 2016 by the Honorable Kristi Harrington, pursuant to the above mentioned charge. The within motion will be made upon the grounds that the sentence imposed is unnecessarily severe under the circumstances, and upon such other and further grounds as may be hereinafter presented.

Respectfully Submitted,



Kelly Soler  
 Assistant Public Defender  
 Attorney for Defendant

Charleston, South Carolina

Dated: 10/11/16

FILED  
 2016 OCT 12 AM 10:49  
 JULIE J. ARMSTRONG  
 CLERK OF COURT  
 BY \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

STATE OF SOUTH CAROLINA )

v. )

ALLEN STONE, )

Defendant. )

IN THE COURT OF GENERAL SESSIONS  
FOR THE NINTH JUDICIAL CIRCUIT  
Case No.: W10160102

**ORDER**

BY: [Signature]  
CLERK OF COURT  
2016 DEC - 5 PM 1:23

THIS MATTER IS BEFORE THE COURT on Defendant Allen Stone's Amended Motion for Reconsideration of Sentence.

On July 26, 2016, the Court revoked Defendant's probationary sentence in full following a hearing. Defendant filed a Motion for Reconsideration of Sentence on October 12, 2016 and an Amended Motion for Reconsideration of Sentence on November 21, 2016. A formal hearing was held on December 5, 2016 and present were Defendant Stone, Attorney Kelly Solar of the Ninth Circuit Public Defender's Office, and Agent Kescia Holmes of the South Carolina Department of Probation, Parole and Pardon Services.

After careful consideration of Defendant Stone's Motion and the oral arguments presented, the Court finds that the Defendant has failed to present grounds sufficient to warrant reconsideration of the sentence.

THEREFORE, IT IS HEREBY ORDERED that Defendant Allen Stone's Motion for Reconsideration of Sentence is DENIED.

IT IS ORDERED!

[Signature]  
THE HONORABLE KRISTI L. HARRINGTON  
Chief Administrative Judge, 9<sup>th</sup> Judicial Circuit

December 5, 2016

Charleston, South Carolina

## STATE OF SOUTH CAROLINA

COUNTY OF Charleston  
 STATE VS.  
Allen Fletcher Stone

AKA:

Race: WHITE Sex: M Age: 51DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL#: [REDACTED] SID#: SC00308656\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was  
 TO: Burglary / Burglary (Violent) (After 06/20/85) - Second degree

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS1003141A/W#: 2014A1010200294Date of Offense: 1/17/2014S.C. Code § : 16-11-0312(B)CDR Code #: 0086

## SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086

☐ 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: Richard Waring 100465 Allen Stone Pate A. Kennedy 7915  
 Waring, Richard SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
 for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of 5 days/months/years and/or payment  
 of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for 3

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. 180 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 (Criminal  
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: \_\_\_\_\_

☐ Set by SCDPPPS \_\_\_\_\_

## PTUP

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

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly  
 prmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

\$ \_\_\_\_\_ paid to Public Defender Fund

Other: \_\_\_\_\_

Mental Health treatment in SCDC  
and on probation

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

Presiding Judge \_\_\_\_\_

Judge Code: 2134Sentence Date: 7/15/14Clerk of Court/ Deputy Clerk: Amanda Henderson

Court Reporter: \_\_\_\_\_

SCCA/217 (03/2011)

|                                        |         |                  |
|----------------------------------------|---------|------------------|
| *Fine:                                 |         | \$               |
| § 14-1-206 (Assessments 107.5 %)       |         | \$               |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   | \$ <u>100.00</u> |
| § 14-1-211(A)(2) (DUI Surcharge)       | \$100   | \$               |
| § 56-5-2995 (DUI Assessment)           | \$12    | \$               |
| § 56-1-286 (DUI Breath Test)           | \$25    | \$               |
| Proviso 47.9 (Public Def/Prob)         | \$500   | \$ <u>500.00</u> |
| § 14-1-212 (Law Enforce. Funding)      | \$25    | \$ <u>25.00</u>  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$               |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$               |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$               |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ <u>5.00</u>   |
| 3% to County (if paid in installments) |         | \$ <u>18.40</u>  |
| TOTAL                                  |         | \$ <u>648.40</u> |

82

TRW20140100425

WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2014001838

ARREST WARRANT NUMBER

2014A1010200294

DATE OF ARREST

January 17, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury  
Date: *[Signature]*

JUN 03 2014

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1003141

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

June Term 2014

THE STATE

vs.

ALLEN FLETCHER STONE

DOB: *[Redacted]*

W/M

Indictment for

Burglary, 2<sup>nd</sup> Degree, Violent

FILED

6/10/2014 4:05:15 PM

JULIE J. ARMSTRONG

CLERK OF COURT

## STATE OF SOUTH CAROLINA

## AFFIDAVIT

COUNTY OF CHARLESTON  
CITY OF NORTH CHARLESTON

OCA# 2014001838  
Ptl Morian

Personally appeared before me, a magistrate of this County, one  
who first being duly sworn, deposes and says that

*R. E. Sharpe*

## ALLEN FLETCHER STONE

did within this County and State on the 17<sup>th</sup> day of January  
2014 violate the criminal laws of the State of South Carolina in the following particulars:

## DESCRIPTION OF OFFENSE

## BURGLARY 2ND

## VIOLATION OF SECTION 16-11-312 (A)

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

On January 17th, 2014 at approximately 0128 hours while at, 4515 Spruill Ave (Park Circle Dental/Charleston Invisalign Orthodontics) , which is located in the City of North Charleston, County of Charleston, and State of South Carolina, the defendant, **Allen Fletcher Stone** did commit the offense of **BURGLARY 2nd**, in violation of **16-11-312 (A)** of the South Carolina Code of Laws of 1976 as amended. In that the defendant did willfully, unlawfully, and feloniously break into the business located at 4515 Spruill Ave.

Facts to establish the aforesaid are that the suspect was found within the business of 4515 Spruill Ave after officers arrived. As officers cleared the business they observed the defendant with a knife and a bag containing medical supplies from the business in his possession. Officers found a broken front window where the defendant made entry.

Ptl Morian and PFC Beckman are all witness to prove the same. All this done against the form of the Statute and against the law, peace and dignity of the State of South Carolina.

Sworn to and Subscribed before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

**JAN 17 2014**

Signature of Judge

(AFFIANT)

Address: 2500 City Hall Rd.  
North Charleston SC 29419  
843-554-5700

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

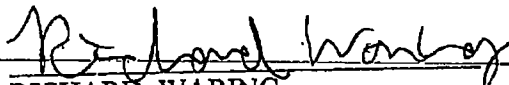
## INDICTMENT

At a Court of General Sessions, convened on June 2, 2014 the Grand Jurors of Charleston County present upon their oath:

**Burglary, 2<sup>nd</sup> Degree, Violent**

That in Charleston County, on or about January 17, 2014 the Defendant, ALLEN FLETCHER STONE, did enter the building of Park Circle Dental and Charleston Invisalign Orthodontics, located at 4515 Spruill Avenue, North Charleston, South Carolina, during the nighttime, without consent and with the intent to commit a crime therein; in violation of Section 16-11-312(B) 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.

  
RICHARD WARING  
ASSISTANT SOLICITOR

## STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS

County of Charleston  
STATE VS.

Indictment Number:

14 -GS- 10 03141Probation C/W #s: W-10-16-0102Allen Stone AUG 27 PM 4:30

AKA:

Race: WSex: MDOB: [REDACTED]SSN: [REDACTED]SID#: 00308656Name of Original Offense: Burglary 2<sup>nd</sup> ViolentOriginal A/W #: 2014A1010200294Date of Original Offense: 1-17-14Conviction S.C. Code §: 16-11-0312(B)Conviction CDR Code #: 0 / 0 / 8 / 6Original Sentence: 15 yrs ss 5 yrs prob

## ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 8/11/14 in the Court of General Sessions of Charleston County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 8/11/14, as set forth in the attached warrant(s) or citation(s) dated 8/11/14. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)

1, 2, 5, 6, 7, 9, 10

## Therefore, IT IS ORDERED that:

☒ the suspended sentence be revoked and the above named defendant be required to serve 15 months/years the remainder of the original sentence, and/or pay \$ 0.

☐ the suspended sentence be revoked and the above named defendant be required to serve \_\_\_\_\_ months/years of the original sentence and/or pay \$ \_\_\_\_\_; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.

☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.

☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.

☐ the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).

☒ Financial Obligations: Order satisfies: ☒ Department fees (arrearage) Civil judgment: ☐ Department fees  
☐ Fines and other fees (arrearage/balance) ☐ Fines and other fees  
☐ Restitution (and 20%) (arrearage/balance) ☐ Restitution (and 20%)

☒ Additional Conditions ordered by the Court:

CTS. Revoke in full. Terminate probation. No administrative monitoring. NO CT for money.

☒ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☐ The defendant has previously served \_\_\_\_\_ months/years on this sentence.  
(split sentence time and/or prior partial revocation time)

☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 27<sup>th</sup> day of July, 2016  
Charleston, SC

Presiding Judge [Signature]

Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper, or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature [Signature]Witnessed by [Signature]

Signed this 26 day of July, 2016 at Charleston, SC

14:41:42 Tuesday, April 11, 2017

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 04/11/17  
OMCOMITA RELEASE DATE SCREEN C023981  
SCDC# > 267003 LOC: MACDOUGALL  
STONE, ALLEN - SCDC CLASSIFICATION...: VIOLENT  
OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY...: N  
SEXUAL PREDATOR...: NOT APP  
DNA STATUS...: COMPLETED  
GPS REQUIREMENT...: N  
PREA DECISION...:  
PREA VICTIM...: HIGH VULNERABLE PREA PERP...: NONE  
CURRENT SENTENCE: 015-00-000 CONSECUTIVE SENTENCE ...: N  
015-00-000 CURRENT SENT START DATE: 03/20/2016  
PROJECTED COMPLETION DATES  
MAXOUT DATE .....: 10/20/2023 CURRENT EWC ..: 2 F 5  
YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC  
INITIAL PAROLE DATE: 01/20/2020 NEXT PAROLE HEARING DATE: 01/20/2020  
  
TOTAL GT DAYS EARNED .....: 000220 LABOR CREW/WORK PROG DATE: 99/99/9999  
TOTAL EARNED WORK CREDITS ..: 000060 LABOR CREW DISQ REASON:  
TOTAL EDUCATION CREDITS .....: 000000 CATEGORY 4 OR 5 OFFENSE  
TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 04/23/23  
TOTAL SERVICE TIME EARNED ...: 000386 ISS.....:  
  
PFKEYS: 5:HISTORY OF DATE CHANGES

# South Carolina Department of Corrections

Classification Summary Reports

Date: Tuesday, April 11, 2017

## Classification Summary Reports

Inmate Number

### Classification Summary Report for STONE, ALLEN :

CLASSIFICATION SUMMARY REPORT DATED 04/11/2017

SCDC# 00267003

STONE, ALLEN

FBI# 729621W8

OFFENDER ADULT-STRAIGHT  
TYPE: SENTENCE

INSTITUTION: MACDOUGALL

SECURITY/CUST: 2 MINIMUM IN

CURR INCARC 15 YRS 0 MOS 0  
SENT: DAYS

VICTIM  
WITNESS: ~~SEPREQ~~

MED ~~GENERAL WORK~~  
CLASS: ~~GENERAL~~

INST ~~GENERAL~~  
RESTRICT: ~~GENERAL~~

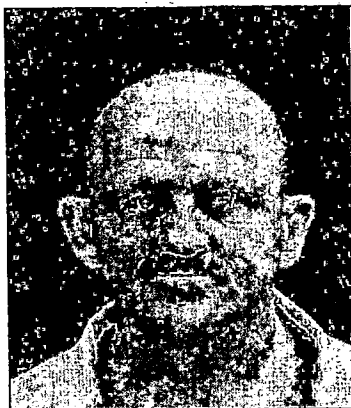
MENTAL  
CLASS: ~~GENERAL~~

CURRENT NO CURRENT  
PROGRAM: PROGRAM

SEX REGISTRY: N

DNA: C

AGE: 53



RESIDENT  
STABILITY: NA

DORMROOMBUNK\_CODE: C2D 0005 A

PROJ MAXOUT  
DATE: 10/20/2023

PROJ PAROLE DATE: 01/20/2020

EWC JOB: TIMEKEEPER

ASSIGNMENT: WARD KEEPER WARD #2

EWC  
LEVEL: 2F5 EEC LEVEL:

EDUC  
PGM: NO CURR EDUC PROGRAM

#### PREVIOUS NUMBERS:

00132178  
00175969  
00249018  
Y00106581  
00185468

Y00124427

| CURRENT OFFENSES    | YRS | MOS | DYS | COUNTY     | SENTENCE   |      |               |
|---------------------|-----|-----|-----|------------|------------|------|---------------|
|                     |     |     |     |            | START      | V/NV | CAT INDICT    |
| BURGLARY-2ND DEGREE | 15  | 0   | 0   | CHARLESTON | 03/20/2016 | V    | 4 14GS1003141 |

| COMPLETED OFFENSES      | YRS | MOS | DYS | COUNTY       | SENTENCE   |      |                |
|-------------------------|-----|-----|-----|--------------|------------|------|----------------|
|                         |     |     |     |              | START      | V/NV | CAT INDICT     |
| SHOPLIFTING             | 3   | 0   | 0   | BEAUFORT     | 07/03/2011 | N    | 2 11GS1007494W |
| BURGLARY-3RD DEGREE     | 3   | 0   | 0   | WILLIAMSBURG | 03/05/2009 | N    | 2 09GS45-0121  |
| DRUNKENNESS             | 0   | 0   | 30  | FLORENCE     | 06/18/2008 | N    | 1 -----        |
| DRUNKENNESS             | 0   | 0   | 30  | FLORENCE     | 06/18/2008 | N    | 1 -----        |
| DISORDERLY CONDUCT      | 0   | 0   | 30  | FLORENCE     | 06/18/2008 | N    | 1 -----        |
| PETIT LARCENY           | 0   | 0   | 30  | FLORENCE     | 06/17/2008 | N    | 1 -----        |
| TRESPASSING             | 0   | 0   | 30  | FLORENCE     | 06/17/2008 | N    | 1 -----        |
| POSSESS STOLEN VEHICLE  | 2   | 0   | 0   | COLLETON     | 09/13/2006 | N    | 2 02GS150758   |
| BURGLARY-3RD DEGREE     | 2   | 0   | 0   | GEORGETOWN   | 09/13/2006 | N    | 2 95GS2200434  |
| RESISTING OFFICER       | 0   | 0   | 90  | FLORENCE     | 07/31/2006 | N    | 3 04GS21550    |
| FORGERY                 | 1   | 0   | 0   | FLORENCE     | 01/07/2003 | N    | 2 03GS21-287   |
| BREAKING INTO MOTOR VEH | 1   | 0   | 0   | FLORENCE     | 01/07/2003 | N    | 2 01GS21-1500  |
| BURGLARY-3RD DEGREE     | 0   | 5   | 0   | CHESTERFIELD | 05/26/2000 | N    | 2 00GS130059   |
| LARCENY                 | 0   | 0   | 30  | CHESTERFIELD | 05/26/2000 | N    | 2 00GS130058   |

## PRIOR COMMITMENTS OVER 90 DAYS:

|            |                         |
|------------|-------------------------|
| 10/21/1990 | STOLEN PROPERTY-UNKNOWN |
| 12/21/1985 | GRAND LARCENY           |
| 07/04/1984 | GRAND LARCENY           |
| 03/09/1981 | HB-DWELLING IN DAY      |

| PREVIOUS OFFENSES        | PREVSCDCID | YRS | MOS | DYS | COUNTY       | SENTENCE   |      |              |
|--------------------------|------------|-----|-----|-----|--------------|------------|------|--------------|
|                          |            |     |     |     |              | START      | V/NV | CAT INDICT   |
| GRAND LARCENY            | 00132178   | 5   | 0   | 0   | CHESTERFIELD | 01/19/1986 | U    | 2 00001      |
| BURGLARY-3RD DEGREE      | 00175969   | 1   | 0   | 0   | FLORENCE     | 10/21/1990 | N    | 2 00001      |
| FAILURE TO APPEAR        | 00175969   | 1   | 0   | 0   | FLORENCE     | 10/21/1990 | N    | 1 00001      |
| FORGERY                  | 00185468   | 5   | 0   | 0   | CHESTERFIELD | 05/30/1992 | N    | 2 92GS13334  |
| UNAUTHORIZED USE-VEHICLE | 00185468   | 3   | 0   | 0   | CHESTERFIELD | 02/06/1992 | N    | 2 90GS13-402 |
| GRAND LARCENY            | 00249018   | 0   | 48  | 0   | FLORENCE     | 02/26/1998 | N    | 2 98GS21527  |

## DETAINERS (HOLD,WANTED,NOTIFY):

\*NO DETAINEES\*

## ESCAPES:

|            |                      |
|------------|----------------------|
| 08/17/2006 | OTHER ESCAPE RELATED |
| 12/30/2005 | OTHER ESCAPE RELATED |
| 01/31/1991 | OTHER ESCAPE RELATED |
| 05/17/1990 | OTHER ESCAPE RELATED |

## CRIMINAL CHARGES:

\*NO CRIMINAL CHARGES HISTORY\*

## ASSAULTIVE DISCIPLINARIES:

\*NO ASSAULTIVE DISCIPLINARY HISTORY\*

## PREVIOUS ASSAULTIVE DISCIPLINARIES:

**\*NO PREVIOUS ASSAULTIVE DISCIPLINARY HISTORY\***

**NON-ASSAULTIVE DISCIPLINARIES:**

|            |                                          |           |                           |
|------------|------------------------------------------|-----------|---------------------------|
| 03/20/2017 | I/M UNDER INFLUENCE/POSS ALCOHOL OR BUCK | CONVICTED | ADMINISTRATIVE RESOLUTION |
| 01/22/2017 | POSSESSION OF CONTRABAND                 | CLOSED    | OTHER ACTION TAKEN/INFORM |
| 11/07/2016 | POSSESSION OF CONTRABAND                 | CLOSED    | OTHER ACTION TAKEN/INFORM |

**PREVIOUS NON-ASSAULTIVE DISCIPLINARIES:**

|            |           |                                          |                                     |
|------------|-----------|------------------------------------------|-------------------------------------|
| 04/08/2003 | 00175969  | POSSESSION OF CONTRABAND                 | DISMISSED CHARGES DROPPED/INSUFF. E |
| 06/20/1998 | 00249018  | SOLICIT EMPLOYEE,I/M,VIOULATE SCDC RULE  | CONVICTED MAJOR DISC. HEARING       |
| 06/20/1998 | 00249018  | SOLICIT EMPLOYEE,I/M,VIOULATE SCDC RULE  | DISMISSED MAJOR DISC. HEARING       |
| 03/16/1992 | 00185468  | DAMAGE,DESTROY,PROP.VALUE AT \$100./MORE | CONVICTED MAJOR DISC. HEARING       |
| 04/07/1985 | Y00124427 | POSSESSION OF CONTRABAND                 | CONVICTED MAJOR DISC. HEARING       |
| 04/07/1985 | Y00124427 | I/M UNDER INFLUENCE/POSS ALCOHOL OR BUCK | CONVICTED MAJOR DISC. HEARING       |

**HISTORY OF MOVEMENTS:**

|            |                 |                    |                           |
|------------|-----------------|--------------------|---------------------------|
| 12/05/2016 | MACDOUGALL      | INCARCERATED       | RETURN FROM COURT         |
| 12/05/2016 | CHARLESTON CO   | AUTH ABSENCE (AWL) | TO COURT                  |
| 10/04/2016 | MACDOUGALL      | INCARCERATED       | ADMINISTRATIVE            |
| 07/28/2016 | KIRKLAND        | INCARCERATED       | R&E PROCESSING            |
| 07/28/2016 | LIEBER          | INCARCERATED       | NEW SENT W/O PR/CS/SF REV |
| 02/01/2013 | BEAUFORT CO     | PROBATION          | RELEASED TO PROBATION     |
| 04/09/2012 | KERSHAW         | INCARCERATED       | RETURN FROM COURT         |
| 04/09/2012 | CHARLESTON CO   | AUTH ABSENCE (AWL) | TO COURT                  |
| 03/28/2012 | KERSHAW         | INCARCERATED       | ADMINISTRATIVE            |
| 03/27/2012 | KIRKLAND        | INCARCERATED       | MEDICAL                   |
| 03/21/2012 | KERSHAW         | INCARCERATED       | ADMINISTRATIVE            |
| 03/21/2012 | KIRKLAND        | INCARCERATED       | MEDICAL                   |
| 02/22/2012 | KERSHAW         | INCARCERATED       | ADMINISTRATIVE            |
| 02/22/2012 | KIRKLAND        | INCARCERATED       | MEDICAL                   |
| 02/08/2012 | KERSHAW         | INCARCERATED       | ADMINISTRATIVE            |
| 01/09/2012 | KIRKLAND        | INCARCERATED       | RETURN FROM COURT         |
| 01/09/2012 | CHARLESTON CO   | AUTH ABSENCE (AWL) | TO COURT                  |
| 10/31/2011 | KIRKLAND        | INCARCERATED       | R&E PROCESSING            |
| 10/31/2011 | LIEBER          | INCARCERATED       | NEW SENT W/O PR/CS/SF REV |
| 09/01/2010 | WILLIAMSBURG CO | PROBATION          | RELEASED TO PROBATION     |
| 05/18/2010 | ALLENDAL        | INCARCERATED       | ADMINISTRATIVE            |
| 05/18/2010 | KIRKLAND        | INCARCERATED       | MEDICAL                   |
| 10/06/2009 | ALLENDAL        | INCARCERATED       | ADMINISTRATIVE            |
| 10/06/2009 | RICHLAND CO     | AUTH ABSENCE (AWL) | MEDICAL                   |
| 08/18/2009 | ALLENDAL        | INCARCERATED       | ADMINISTRATIVE            |
| 06/01/2009 | KIRKLAND        | INCARCERATED       | R&E PROCESSING            |
| 06/01/2009 | LIEBER          | INCARCERATED       | NEW SENT W/O PR/CS/SF REV |
| 09/17/2008 | FLORENCE CO     | PROBATION          | RELEASED TO PROBATION     |
| 08/11/2008 | TURBEVILLE      | INCARCERATED       | ADMINISTRATIVE            |
| 07/16/2008 | KIRKLAND        | INCARCERATED       | ADMINISTRATIVE            |
| 06/26/2008 | KIRKLAND INFRM  | INCARCERATED       | MEDICAL                   |
| 06/26/2008 | KIRKLAND        | INCARCERATED       | NEW SENT W/O PR/CS/SF REV |
| 08/31/2007 | FLORENCE CO     | PROBATION          | RELEASED TO PROBATION     |
| 01/25/2007 | EVANS           | INCARCERATED       | ADMINISTRATIVE            |

|            |               |                    |                           |
|------------|---------------|--------------------|---------------------------|
| 01/16/2007 | WALDEN        | INCARCERATED       | ADMINISTRATIVE            |
| 11/02/2006 | EVANS         | INCARCERATED       | ADMINISTRATIVE            |
| 09/18/2006 | KIRKLAND      | INCARCERATED       | NEW SENT W/O PR/CS/SF REV |
| 08/01/2003 | FLORENCE CO   | PROBATION          | RELEASED TO PROBATION     |
| 07/31/2003 | GEORGETOWN CO | AUTH ABSENCE (AWL) | TO COURT                  |
| 06/02/2003 | ALLEDALE      | INCARCERATED       | ADMINISTRATIVE            |
| 06/02/2003 | KIRKLAND      | INCARCERATED       | MEDICAL                   |
| 05/19/2003 | ALLEDALE      | INCARCERATED       | ADMINISTRATIVE            |
| 04/24/2003 | KIRKLAND      | INCARCERATED       | NEW SENT W/O PR/CS/SF REV |
| 08/26/2000 | FLORENCE CO   | PROBATION          | RELEASED TO PROBATION     |
| 08/22/2000 | WALDEN        | INCARCERATED       | ADMINISTRATIVE            |
| 08/22/2000 | KIRKLAND      | INCARCERATED       | MEDICAL                   |
| 08/01/2000 | WALDEN        | INCARCERATED       | ADMINISTRATIVE            |
| 06/09/2000 | KIRKLAND      | INCARCERATED       | NEW ADMISSION             |

## HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

| JOB DESCRIPTION      | START DATE | END DATE   | TERMINATION REASON      | JOB LVL |
|----------------------|------------|------------|-------------------------|---------|
| TIMEKEEPER           | 10/20/2016 | -          |                         | 2F5     |
| INDUSTRIES TRAINEE   | 02/21/2012 | 02/01/2013 | RELEASED/PAROLED        | 2F5     |
| WARDKEEPER           | 02/09/2012 | 02/20/2012 | INMATE REQUEST          | 2F5     |
| CUSTODIAL WORKER     | 08/20/2009 | 09/01/2010 | RELEASED/PAROLED        | 2F5     |
| WARDKEEPER ASSISTANT | 08/12/2008 | 09/17/2008 | RELEASED/PAROLED        | 2F5     |
| CUSTODIAL WORKER     | 01/26/2007 | 08/31/2007 | RELEASED/PAROLED        | 2F5     |
| CUSTODIAN HELPER     | 01/20/2007 | 01/25/2007 | INSTIT TRANSFER         | 2F5     |
| SENIOR SHOP OPERATOR | 01/18/2007 | 01/19/2007 | LATERAL TRANSFER        | 2F5     |
| CUSTODIAL WORKER     | 11/03/2006 | 01/16/2007 | INSTIT TRANSFER         | 2F5     |
| CUSTODIAN HELPER     | 05/23/2003 | 08/01/2003 | RELEASED/PAROLED        | 2F5     |
| CUSTODIAN HELPER     | 05/20/2003 | 05/22/2003 | MI ELIGIBLE FOR LEVEL 2 | 3F5     |
| WARDKEEPER ASSISTANT | 08/15/2000 | 08/26/2000 | RELEASED/PAROLED        | 2F5     |
| AGRICULTURE HELPER   | 08/03/2000 | 08/14/2000 | MEDICAL                 | 2F5     |

## HISTORY OF EARNED EDUCATION CREDITS:

| EEC DESCRIPTION  | START DATE | END DATE   | TERMINATION REASON |
|------------------|------------|------------|--------------------|
| BONUS 4-7 HRS/WK | 09/21/2012 | 02/01/2013 | RELEASED/PAROLED   |
| BONUS 15 OR MORE | 02/24/2010 | 09/01/2010 | RELEASED/PAROLED   |

\*\*\*\*\* END OF REPORT \*\*\*\*\*

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## STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS

County of  
STATECharleston

VS.

FILED

Indictment Number:

14

-GS-

10

- 03141

Probation C/W#s:

W-10-16-0102

AKA:

Race:

W

Sex:

M

DOB:

SSN:

SID#:

00308156

BY

MA

Name of Original Offense: Burglary 2nd ViolentOriginal A/W#: 2014A1010200294Date of Original Offense: 1-17-14Conviction S.C. Code §: 16-11-0312(B)Conviction CDR Code #: 0 / 0 / 8 / 6Original Sentence: 15 yrs ss 5 yrs prob

## ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 8/11/14 in the Court of General Sessions of Charleston County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on                     , as set forth in the attached warrant(s) or citation(s) dated                     . After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)

1, 2, 5, 6, 7, 9, 10

## Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 15 months/years the remainder of the original sentence, and/or pay \$ 0.
- ☐ the suspended sentence be revoked and the above named defendant be required to serve              months/years of the original sentence and/or pay \$             ; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☐ the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- ☒ Financial Obligations: Order satisfies: ☒ Department fees (arrearage) Civil judgment: ☐ Department fees  
☐ Fines and other fees (arrearage/balance) ☐ Fines and other fees  
☒ Restitution (and 20%) (arrearage/balance) ☐ Restitution (and 20%)

☒ Additional Conditions ordered by the Court:

CTS. Revoke in full. Terminate probation. No administrative monitoring. No CJ for money.

☒ The defendant is given credit for pre-arrest detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☐ The defendant has previously served              months/years on this sentence.  
(split sentence time and/or prior partial revocation time)

☐ The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 27th day of July, 2016,  
Charleston, SC

Presiding Judge

Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

K. Unavailable to Sign.

Witnessed by

[Signature]

Signed this 26 day of July, 2016, at Charleston, SC  
Day Month Year

STATE OF SOUTH CAROLINA

County of Florence  
STATE VS.

Allen Stone

AKA: N/A

Race: White Sex: Male

DOB: [REDACTED]

SSN: [REDACTED]

SID#: 00308656

IN THE COURT OF GENERAL SESSIONS  
INDICTMENT#

02 GS 15

OW#: W-21-03-0621

Name of Original Offense: Probation Violation

Conviction S.C. Code §: 16-21-301(a)

Conviction CDR Code #: 051318

Date of Original Offense: 7/2/02

Original Sentence: 5 years suspended to 5 years

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 01/21/03 in the Court of General Sessions of Florence County as set forth in the attached warrant or citation dated 2/11/03. After hearing the evidence and being duly advised, in the (presence/absence) of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (list by number or indicate special condition as provided in the affidavit) 1, 4, 5 and 10

Therefore, IT IS ORDERED that:

- ☐ the suspended sentence be revoked and the above named defendant be required to serve \_\_\_\_\_ months/years, the remainder of the original sentence, and/or pay \$ \_\_\_\_\_
- ☒ the suspended sentence be revoked and the above named defendant be required to serve 3 months/years of the original sentence and/or pay \$ \_\_\_\_\_ thereupon to be reinstated on probation subject to the conditions set forth in the attached order and not inconsistent with this order.
- ☐ the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- ☐ probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- ☒ Additional Conditions ordered by the Court: Revoke 24 hrs and terminate balance of probation satisfying all conditions and monetary obligations.

☐ The defendant is given credit for pre-arrest hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.

☒ The defendant has previously served 32 months/years on this sentence.  
(split sentence time and/or prior partial revocation time)

This 13<sup>th</sup> day of September 2006

Presiding Judge

Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender's Signature

Witnessed by

Signed this \_\_\_\_\_ day of \_\_\_\_\_, Year \_\_\_\_\_ at \_\_\_\_\_ City \_\_\_\_\_, SC

CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

South Carolina Department of Probation, Parole and Pardon Service  
Violation Report

93  
Judge

State of South Carolina, County of: Florence  
Offender's Name: Allen Stone  
SID#: 308858

Warrant#: W-21-03-0629; W-21-03-0830  
Date of Birth: [REDACTED]

Indictment Numbers:  
02-GS-15-0768 (case 104)  
95-GS-22-434 (case 105)

Offense and Offense Code:  
Poss. Of Stolen Vehicle (case 104)  
Burglary 3<sup>rd</sup> Degree (case 105)

Supervision Program: Probation Begin Date: 01/29/03 End Date: 09/25/06  
Supervision Level: High

Sentencing County: Colleton (case 104); Georgetown (case 105)  
Sentencing Date: 01/29/03 (case 104); 09/26/03 (case 105)  
Location (Bold Response): SCDC Jail Community

Sentence: (Case 104) - 5 years suspended to 5 years probation; (Case 105) - 5 years suspended to 84 days and 3 years probation

Special Conditions: (Case 104) - credit 202 days served; \$103 surcharge; (case 105) - credit 84 days time served; \$128.75 surcharge

Current Address and Summary of Residence: Unknown

Reporting: Offender has failed to report throughout the supervision history

Employment Records While Under Supervision:

| Employer   | Dates (from -to) | Reason(s) for Leaving | Earnings |
|------------|------------------|-----------------------|----------|
| Unemployed |                  |                       |          |
|            |                  |                       |          |

Financial Conditions:

|                 | Total Amount ordered | Pay Period | Total Paid | Date Last Paid | Arrearage | Balance Due |
|-----------------|----------------------|------------|------------|----------------|-----------|-------------|
| Restitution     | \$2640               | \$55/m     | \$80       | 11/4/03        | \$215     | \$2580      |
| Fine            | \$231.75             | \$22/m     | 0          | N/A            | \$22      | \$231.75    |
| Supervision Fee | \$2120               | \$40/m     | \$80       | 11/4/03        | \$120     | \$2040      |

# 94

**South Carolina Department of Probation, Parole and Pardon Service**  
**Violation Report**

Offender's Name: Allen Stone

| Prior Violation Dates | Prior Violations    | Prior Violation Disposition     |
|-----------------------|---------------------|---------------------------------|
| 12/02/03              | Financial arrearage | 1182 issued (written reprimand) |

**Details of the Present Violation:**

Case 104 - Warrant Issued 12/19/2003

Served 12/19/2003

Case 104/ Indict. # 02-GS-15-758

- #1- Failing to report as instructed (Case was transferred from Berkeley County on 12/2/2003 and was advised to report on 12/3/2003 by 4:00PM - offender has failed to report since that date)
  - #4 - There is probable cause to believe the offender was in possession of a firearm based on his arrest on 12/7/2003 by the Florence County Sheriff's Office for Poss. of an Unlawful Pistol
  - #8 - Failing to notify agent of his arrest on 12/7/2003 by the Florence County Sheriff's Office for the following offenses: Driving Without a License; Public Consumption of Alcohol; Poss. of Unlawful Pistol; Resisting Arrest
  - #10 - Failing to follow the advice and instructions of his agent
- \*These charges constitute a willful violation\*

Case 105 - Warrant Issued 12/19/2003

Served 12/19/2003

Case 105/ Indict. # 95-GS-22-00434

- #1- Failing to report as instructed (Case was transferred from Berkeley County on 12/2/2003 and was advised to report on 12/3/2003 by 4:00PM - offender has failed to report since that date)
  - #4 - There is probable cause to believe the offender was in possession of a firearm based on his arrest on 12/7/2003 by the Florence County Sheriff's Office for Poss. of an Unlawful Pistol
  - #8 - Failing to notify agent of his arrest on 12/7/2003 by the Florence County Sheriff's Office for the following offenses: Driving Without a License; Public Consumption of Alcohol; Poss. of Unlawful Pistol; Resisting Arrest
  - #10 - Failing to follow the advice and instructions of his agent
- \*These charges constitute a willful violation\*

**Agent's Recommendation: Revocation**

**Agent's Justification:** This offender has failed to report since the case was transferred to Florence County - he was released on bond on 1/17/04 after being arrested for non-reporting on 12/19/04 - he reported on 1/20/2004, and has not been back since despite being instructed to report weekly until his revocation hearing - although the offender was not found to be in possession of a pistol as he was originally charged, he was in possession of brass knuckles, which is also a violation of condition #4 - the offender has made very little effort to report or to comply with his financial obligations - he has no stable residence and has a history of transferring his probation from county to county - his case was transferred to Florence County on 12/2/2003, and he was almost immediately arrested by the Florence County Sheriff's Office (on 12/7/2004) for new charges including possession of a weapon and resisting arrest - he has been on supervision with this department 8 previous times, and 7 of these cases ended in either revocation or judicial closure - Mr. Stone is a career criminal who shows no interest in rehabilitation as demonstrated by his 21 page rap sheet which stretches back more than 20 years and spans multiple jurisdictions in South Carolina and North Carolina - he is a poor candidate for community supervision and should be incarcerated to the maximum extent allowed by law

Steven Floyd,

*Steven B. Floyd*

Date: March 18, 2004

Supervisor's Signature

*Daniel H. Lill*

Date: 3-18-04

# STATE OF SOUTH CAROLINA

COUNTY OF Florence

## Probation

## ARREST WARRANT

Indictment Number 02-GS-15-0758

Warrant Number W-21-03-0629

State Identification No. (SID) 308896

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF Lake City, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that Allen Stone, did on the 18th day of December, 2003, violate the criminal laws of the State of South Carolina as set forth below:

### DESCRIPTION OF OFFENSE:

Violation of probation conditions 1, 4, 6 and 10 as ordered in case # 02-GS-15-0758 by the Colleton County Court of General Sessions

Now, therefore, you are empowered and directed to arrest the said defendant and bring Allen Stone 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. Done at Lake City, S. C. this

18th day of December, 2003.

Steven B. Floyd (L.S.)  
Signature of Probation and Parole Agent

County of Florence

# STATE OF SOUTH CAROLINA

## AFFIDAVIT

Personally appeared before me, one Steven B. Floyd, who, first being duly sworn, deposes and says that Allen Stone did within this County and State on the 18th day of December, 2003, violate the criminal laws of the State of South Carolina in the following particulars:

### DESCRIPTION OF OFFENSE:

Violation of probation conditions 1, 4, 6 and 10 as ordered in case # 02-GS-15-0758 by the Colleton County Court of General Sessions

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

Case 104/ Indict. # 02-GS-15-758

#1- Failing to report as instructed (Case was transferred from Berkeley County on 12/2/2003 and was advised to report on 12/3/2003 by 4:00PM - offender has failed to report since that date)

#4 - There is probable cause to believe the offender was in possession of a firearm based on his arrest on 12/7/2003 by the Florence County Sheriff's Office for Poss. of an Unlawful Pistol

#6 - Failing to notify agent of his arrest on 12/7/2003 by the Florence County Sheriff's Office for the following offenses: Driving Without a License; Public Consumption of Alcohol; Poss. of Unlawful Pistol; Resisting Arrest

#10 - Failing to follow the advice and instructions of his agent

\*These charges constitute a willful violation\*

Sworn to and Subscribed before me this 17th day of December, 2003.

Steven B. Floyd  
Affiant

Daniel H. Lee (L.S.)  
Signature of Notary Public

Address: 162 Brown Street  
Lake City, SC 29560

9-18-12  
My Commission Expires

(Form Continues on Back)

RETURN

STATE OF SOUTH CAROLINA  
COUNTY OF

Florence

THE STATE  
against

Allen Stone

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

Allen Stone

Offense: Violation of Probation

Offense Section: 24-21-430

Date: 12/19/2003

Officer and Agency: SC Department of Probation,  
Parole and Pardon Services

Steven B. Floyd

Disposition

Sentence

Co-Defendants

on the 19<sup>th</sup> day of Dec. 2003.

Sharon R. Carter  
Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

Signature of Judge

(L.S.)

INFORMATION ON DEFENDANT

Name Allen Stone  
Address 115 First Neck Rd.  
Johnsonville, SC 29555  
Phone \_\_\_\_\_  
Sex Male Race White Height 503  
Weight 120 Birth date             
Social Security Number           

INFORMATION ON WITNESSES

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_

PRELIMINARY HEARING held by

Magistrate \_\_\_\_\_  
on \_\_\_\_\_  
with \_\_\_\_\_

Attorney for the Defendant.

Decision \_\_\_\_\_  
BAIL  
Date Set \_\_\_\_\_  
Magistrate \_\_\_\_\_  
Amount \_\_\_\_\_  
Surety \_\_\_\_\_

96

# STATE OF SOUTH CAROLINA

COUNTY OF Florence

## Probation

## ARREST WARRANT

Indictment Number 95-GS-22-434

Warrant Number W-21-03-0630

State Identification No. (SID) 308656

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF Lake City, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that Allen Stone, did on the 19th day of December, 2003, violate the criminal laws of the State of South Carolina as set forth below:

### DESCRIPTION OF OFFENSE:

Violation of probation conditions 1, 4, 6 and 10 as ordered in case # 95-GS-22-434 by the Georgetown County Court of General Sessions

Now, therefore, you are empowered and directed to arrest the said defendant and bring Allen Stone 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. Done at Lake City, S. C. this

19th day of December, 2003.

*Steven B. Floyd*

(L.S.)

Signature of Probation and Parole Agent

County of Florence

# STATE OF SOUTH CAROLINA

## AFFIDAVIT

Personally appeared before me, one Steven B. Floyd, who, first being duly sworn, deposes and says that Allen Stone did within this County and State on the 19th day of December, 2003, violate the criminal laws of the State of South Carolina in the following particulars:

### DESCRIPTION OF OFFENSE:

Violation of probation conditions 1, 4, 6 and 10 as ordered in case # 95-GS-22-434 by the Georgetown County Court of General Sessions

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

Case 105/ Indict.# 95-GS-22-00434

#1- Failing to report as instructed (Case was transferred from Berkeley County on 12/2/2003 and was advised to report on 12/3/2003 by 4:00PM - offender has failed to report since that date)

#4 - There is probable cause to believe the offender was in possession of a firearm based on his arrest on 12/7/2003 by the Florence County Sheriff's Office for Poss. of an Unlawful Pistol

#6 - Failing to notify agent of his arrest on 12/7/2003 by the Florence County Sheriff's Office for the following offenses: Driving Without a License; Public Consumption of Alcohol; Poss. of Unlawful Pistol; Resisting Arrest

#10 - Failing to follow the advice and instructions of his agent

\*These charges constitute a willful violation\*

Sworn to and Subscribed before me  
this 19th day of December, 2003

*Steven B. Floyd*

Affiant

*Daniel H. Lee*

(L.S.)

Signature of Notary Public

Address: 182 Brown Street  
Lake City, SC 29560

9-18-12  
My Commission Expires

(Form Continues on Back)

RETURN

STATE OF SOUTH CAROLINA  
COUNTY OF  
Florence

THE STATE  
against

Allen Stone

ARREST WARRANT

Offense: Violation of Probation

Offense Section: 24-21-430

Date: 12/19/2003

Officer and Agency: SC Department of Probation,  
Parole and Pardon Services

Steven B. Floyd

Disposition

Sentence

Co-Defendants

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the  
following defendant:

Allen Stone

on the 19<sup>th</sup> day of Dec. 2003

Georgia R. Carter

Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant  
Certification] County. The accused is to be arrested and brought  
before me to deal with according to law.

Signature of Judge

(L.S.)

INFORMATION ON DEFENDANT

Name Allen Stone  
Address 115 First Neck Rd.  
Johnsonville, SC 29555  
Phone  
Sex Male Race White Height 503  
Weight 120 Birth date  
Social Security Number

INFORMATION ON WITNESSES

Name  
Address  
Phone

Name  
Address  
Phone

Name  
Address  
Phone

Name  
Address  
Phone

PRELIMINARY HEARING held by

Magistrate  
on  
with

Attorney for the Defendant.

Decision

BAIL

Date Set  
Magistrate  
Amount  
Surety

86

# STATE OF SOUTH CAROLINA

COUNTY OF Florence

## Probation

## ARREST WARRANT

Indictment Number 95-GS-22-434

Warrant Number W-21-04-0153

State Identification No. (SID) 308656

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF Lake City, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that Allen Stone, did on the 2nd day of April, 2004, violate the criminal laws of the State of South Carolina as set forth below:

### DESCRIPTION OF OFFENSE:

Violation of probation condition 10 as ordered in case # 95-GS-22-434 by the Georgetown County Court of General Sessions

Now, therefore, you are empowered and directed to arrest the said defendant and bring Allen Stone 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. Done at Lake City, S. C. this

2nd day of April, 2004.

Steven B. Floyd (L.S.)  
Signature of Probation and Parole Agent

County of Florence

# STATE OF SOUTH CAROLINA

## AFFIDAVIT

Personally appeared before me, one Steven B. Floyd, who, first being duly sworn, deposes and says that Allen Stone did within this County and State on the 2nd day of April, 2004, violate the criminal laws of the State of South Carolina in the following particulars:

### DESCRIPTION OF OFFENSE:

Violation of probation condition 10 as ordered in case # 95-GS-22-434 by the Georgetown County Court of General Sessions

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

#10 - Failing to follow the advice and instructions of his agent by failing to appear for scheduled revocation hearing on 3/22/2004 in Florence County General Sessions Court  
\*This constitutes a willful violation of probation\*

Sworn to and Subscribed before me  
this 2nd day of April, 2004.

Steven B. Floyd  
Affiant

Daniel H. Lee (L.S.)  
Signature of Notary Public

Address: 182 Brown Street  
Lake City, SC 29560

9-18-12  
My Commission Expires

(Form Continues on Back)

RETURN

STATE OF SOUTH CAROLINA  
COUNTY OF  
Florence

THE STATE  
against

Allen Stone

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the  
following defendant:

Allen Stone

Offense: Violation of Probation

Offense Section: 24-21-430

Date: 04/02/2004

Officer and Agency: SC Department of Probation,  
Parole and Pardon Services

Steven B. Floyd

Disposition

Sentence

Co-Defendants

on the 11<sup>th</sup> day of September, 2006

*Richard L. Litch*

Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant  
Certification] County. The accused is to be arrested and brought  
before me to deal with according to law.

Signature of Judge

(L.S.)

INFORMATION ON DEFENDANT

Name Allen Stone  
Address 115 First Neck Rd.  
Johnsonville, SC 29555  
Phone Unknown  
Sex Male Race White Height 503  
Weight 120 Birth date [REDACTED]  
Social Security Number [REDACTED]

INFORMATION ON WITNESSES

Name  
Address  
Phone  
Name  
Address  
Phone  
Name  
Address  
Phone  
Name  
Address  
Phone

PRELIMINARY HEARING held by

Magistrate  
on  
with

Attorney for the Defendant.

Decision

BAIL  
Date Set 9-12-06  
Magistrate [Signature]  
Amount \$1000  
Surety [Signature]

10/20/06 8:30  
180 N. Dwy St 190 SC

## STATE OF SOUTH CAROLINA

COUNTY OF Florence

## Probation

## ARREST WARRANT

Indictment Number 02-GS-15-0758

Warrant Number W-21-04-0154

State Identification No. (SID) 308868

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF Lake City, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that Allen Stone, did on the 2nd day of April, 2004, violate the criminal laws of the State of South Carolina as set forth below:

## DESCRIPTION OF OFFENSE:

Violation of probation condition 10 as ordered in case # 02-GS-15-0758 by the Colleton County Court of General Sessions

Now, therefore, you are empowered and directed to arrest the said defendant and bring Allen Stone 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. Done at Lake City, S. C. this

2nd day of April, 2004.

Steven B. Floyd (L.S.)  
 Signature of Probation and Parole Agent

County of Florence

## STATE OF SOUTH CAROLINA

## AFFIDAVIT

Personally appeared before me, one Steven B. Floyd, who, first being duly sworn, deposes and says that Allen Stone did within this County and State on the 2nd day of April, 2004, violate the criminal laws of the State of South Carolina in the following particulars:

## DESCRIPTION OF OFFENSE:

Violation of probation condition 10 as ordered in case # 02-GS-15-0758 by the Colleton County Court of General Sessions

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

#10 - Failing to follow the advice and instructions of his agent by failing to appear for scheduled revocation hearing on 3/22/2004 in Florence County General Sessions Court  
 \*This constitutes a willful violation of probation\*

Sworn to and Subscribed before me  
 this 2nd day of April, 2004.

Steven B. Floyd  
 Affiant

Address: 182 Brown Street  
 Lake City, SC 29580

James H. Lee (L.S.)  
 Signature of Notary Public

9-18-12  
 My Commission Expires

(Form Continues on Back)

RETURN

STATE OF SOUTH CAROLINA

COUNTY OF

Florence

THE STATE

against

Allen Stone

ARREST WARRANT

Offense: Violation of Probation

Offense Section: 24-21-430

Date: 04/02/2004

Officer and Agency: SC Department of Probation,  
Parole and Pardon Services

Steven B. Floyd

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name Allen Stone

Address 115 First Neck Rd.

Johnsonville, SC 29555

Phone Unknown

Sex Male Race White Height 503

Weight 120 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

e

on

with

Attorney for the Defendant.

Decision

BAIL

Date Set

Magistrate

Amount

Surety

102

A copy of this Arrest Warrant was delivered by me to the following defendant:

Allen Stone

on the 11<sup>th</sup> day of September, 2006.

*Richard F. Litch*

Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to dealt with according to law.

(L.S.)

Signature of Judge

WARRANT ENTERED IN SCW/NCIC  
Date entered: 10-17-05  
Date served:  
FLOS notified: by (initials)

South Carolina Department of Probation, Parole and Pardon Service  
 Notice of Violation and Response

SS

County:

103

Offender Name:

Allen Stone

SS#

358656

Cases:

Episode# (OE#):

Agent Badged:

Type of Case

☒ Probation

☐ Parole

☐ Community Supervision

☐ SFII

☐ YOA

☐ Other

Violation Category

☒ Compliance

☐ Community Safety

No. of Previous Staffings

☐ 1

☐ 2

☐ 3 or More

THIS NOTICE IS TO FORMALLY ADVISE YOU THAT YOU HAVE FAILED TO ABIDE BY THE FOLLOWING CONDITIONS OF SUPERVISION:

Details of Current Violation(s):

(9/14/03) failed to pay restitution - \$50.00 in 11/10/03  
 (5/1/03) failed to pay court cost - \$30.00 in 11/10/03  
 (10/1/03) failed to follow A.D. of the agent

UNDER AUTHORITY GIVEN TO S. C. PROBATION AND PAROLE AGENTS BY THE S. C. CODE OF LAWS, YOU ARE HEREBY INSTRUCTED TO COMPLY WITH THE FOLLOWING CHANGES:

Violation(s) Determined to Exist?

☒ Yes ☐ No

☒ Continue Supervision

☐ Forward to Administrative Hearing Officer

Response:

☐ Modify Supervision Level:

☐ High

☐ Intensive \_\_\_\_\_ Days

☐ Exempt \$ \_\_\_\_\_

☐ Convert to PSE \$ \_\_\_\_\_ to \_\_\_\_\_ Hours

☐ Home Detention: \_\_\_\_\_ Days

☐ Electronic Monitoring \_\_\_\_\_ Days

☐ Reinstate PSE

☐ Impose PSE: \_\_\_\_\_ Hours

☒ Restructure Monetary Obligations (increase rate and/or frequency of payment).

Much have 2 months allowance  
 paid by 12/20/03. Restructure Court cost - Total \$5.00 -  
 Other: 4/24/03 was not paying on 1/15/03, payment to increase  
 \$11.00 per month. Increase to \$22.00 - 12-15-03 to make  
 payment on 4/15/03 increase to \$11.00 per month.

You are hereby advised that failing to observe all conditions noted above could result in the Board/Court/Administrative Hearing Officer at any time revoking or modifying any condition of your supervision or imposing any lawful special conditions it deems proper. At any time within the period of supervision the Court or Board may, if it sees fit, impose any judgement, sentence, or reimpose the sentence it might have imposed previously.

This is to certify that I have read or have had read to me the order and the conditions set out therein. I agree to comply with such conditions of the order identified above during the period of my supervision. I have received a copy of this document.

Signatures

Offender

Date

Agent

Date

Supervisor/Hearing Official

Date

# 104

**South Carolina Department of Correction, Parole and Pardon Service**  
**Violation Report**

State of South Carolina, County of: Florence  
 Offender's Name: Allen Stone  
 SID#: 308858

Warrant#: W-21-03-0628; W-21-03-0630  
 Date of Birth: [REDACTED]

**Indictment Numbers:**  
 02-GS-15-0758 (case 104)  
 86-GS-22-434 (case 105)

**Offense and Offense Code:**  
 Poss. Of Stolen Vehicle (case 104)  
 Burglary 3<sup>rd</sup> Degree (case 105)

**Supervision Program:** Probation **Begin Date:** 01/28/03 **End Date:** 09/25/08  
**Supervision Level:** High

**Sentencing County:** Colleton (case 104); Georgetown (case 105)  
**Sentencing Date:** 01/28/03 (case 104); 08/26/03 (case 105)  
**Location (Bold Response):** SCDC Jail Community

**Sentence:** (Case 104) - 5 years suspended to 5 years probation; (Case 105) - 5 years suspended to 84 days and 3 years probation

**Special Conditions:** (Case 104) - credit 202 days served; \$103 surcharge; (case 105) - credit 84 days time served; \$128.75 surcharge

**Current Address and Summary of Residence:** Unknown

**Reporting:** Offender has failed to report throughout the supervision history

**Employment Records While Under Supervision:**

| Employer   | Dates (from -to) | Reason(s) for Leaving | Earnings |
|------------|------------------|-----------------------|----------|
| Unemployed |                  |                       |          |
|            |                  |                       |          |

**Financial Conditions:**

|                 | Total Amount ordered | Pay Period | Total Paid | Date Last Paid | Arrearage | Balance Due |
|-----------------|----------------------|------------|------------|----------------|-----------|-------------|
| Restitution     | \$2840               | \$55/m     | \$80       | 11/4/03        | \$215     | \$2580      |
| Fine            | \$231.75             | \$22/m     | 0          | N/A            | \$22      | \$231.75    |
| Supervision Fee | \$2120               | \$40/m     | \$80       | 11/4/03        | \$120     | \$2040      |

**South Carolina Department of Probation, Parole and Pardon Service**  
**Violation Report**

Offender's Name: Allen Stone

| Prior Violation Dates | Prior Violations    | Prior Violation Disposition     |
|-----------------------|---------------------|---------------------------------|
| 12/02/03              | Financial arrearage | 1182 issued (written reprimand) |

**Details of the Present Violation:**

**Case 104 - Warrant Issued 12/19/2003**

**Served 12/19/2003**

Case 104/ Indict. # 02-GS-15-758

#1- Failing to report as instructed (Case was transferred from Berkeley County on 12/2/2003 and was advised to report on 12/3/2003 by 4:00PM - offender has failed to report since that date)

#4 - There is probable cause to believe the offender was in possession of a firearm based on his arrest on 12/7/2003 by the Florence County Sheriff's Office for Poss. of an Unlawful Pistol

#6 - Failing to notify agent of his arrest on 12/7/2003 by the Florence County Sheriff's Office for the following offenses: Driving Without a License; Public Consumption of Alcohol; Poss. of Unlawful Pistol; Resisting Arrest

#10 - Failing to follow the advice and instructions of his agent

"These charges constitute a willful violation"

**Case 105 - Warrant Issued 12/19/2003**

**Served 12/19/2003**

Case 105/ Indict. # 95-GS-22-00434

#1- Failing to report as instructed (Case was transferred from Berkeley County on 12/2/2003 and was advised to report on 12/3/2003 by 4:00PM - offender has failed to report since that date)

#4 - There is probable cause to believe the offender was in possession of a firearm based on his arrest on 12/7/2003 by the Florence County Sheriff's Office for Poss. of an Unlawful Pistol

#6 - Failing to notify agent of his arrest on 12/7/2003 by the Florence County Sheriff's Office for the following offenses: Driving Without a License; Public Consumption of Alcohol; Poss. of Unlawful Pistol; Resisting Arrest

#10 - Failing to follow the advice and instructions of his agent

"These charges constitute a willful violation"

**Agent's Recommendation: Revocation**

**Agent's Justification:** This offender has failed to report since the case was transferred to Florence County - he was released on bond on 1/17/04 after being arrested for non-reporting on 12/19/04 - he reported on 1/20/2004, and has not been back since despite being instructed to report weekly until his revocation hearing - although the offender was not found to be in possession of a pistol as he was originally charged, he was in possession of brass knuckles, which is also a violation of condition #4 - the offender has made very little effort to report or to comply with his financial obligations - he has no stable residence and has a history of transferring his probation from county to county - his case was transferred to Florence County on 12/2/2003, and he was almost immediately arrested by the Florence County Sheriff's Office (on 12/7/2004) for new charges including possession of a weapon and resisting arrest - he has been on supervision with this department 8 previous times, and 7 of these cases ended in either revocation or judicial closure - Mr. Stone is a career criminal who shows no interest in rehabilitation as demonstrated by his 21 page rap sheet which stretches back more than 20 years and spans multiple jurisdictions in South Carolina and North Carolina - he is a poor candidate for community supervision and should be incarcerated to the maximum extent allowed by law

Steven Floyd,

*Steven B. Floyd*

Date: March 18, 2004

Supervisor's Signature

*Daniel H. Lee*

Date: 3.18.04

# 106

Form 16.1 - Arrest Warrant  
Form Approved by  
SC Attorney General  
Section 17-13-180  
March 16, 1978

**STATE OF SOUTH CAROLINA**  
**COUNTY OF Florence**

**Probation**

**ARREST WARRANT**

Indictment Number 02-GS-15-0758

Warrant Number W-21-03-0629

State Identification No. (SID) 308858

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF Lake City, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that Allen Stone, did on the 19th day of December, 2003, violate the criminal laws of the State of South Carolina as set forth below:

**DESCRIPTION OF OFFENSE:**

Violation of probation conditions 1, 4, 6 and 10 as ordered in case # 02-GS-15-0758 by the Colleton County Court of General Sessions

Now, therefore, you are empowered and directed to arrest the said defendant and bring Allen Stone 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. Done at Lake City, S. C. this 19th day of December, 2003.

Steven B. Floyd (L.S.)  
Signature of Probation and Parole Agent

**County of Florence**

**STATE OF SOUTH CAROLINA**

**AFFIDAVIT**

Personally appeared before me, one Steven B. Floyd, who, first being duly sworn, deposes and says that Allen Stone did within this County and State on the 19th day of December, 2003, violate the criminal laws of the State of South Carolina in the following particulars:

**DESCRIPTION OF OFFENSE:**

Violation of probation conditions 1, 4, 6 and 10 as ordered in case # 02-GS-15-0758 by the Colleton County Court of General Sessions

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

Case 104/ Indict. # 02-GS-15-758

#1- Failing to report as instructed (Case was transferred from Berkeley County on 12/2/2003 and was advised to report on 12/3/2003 by 4:00PM - offender has failed to report since that date)

#4 - There is probable cause to believe the offender was in possession of a firearm based on his arrest on 12/7/2003 by the Florence County Sheriff's Office for Poss. of an Unlawful Pistol

#6 - Failing to notify agent of his arrest on 12/7/2003 by the Florence County Sheriff's Office for the following offenses: Driving Without a License; Public Consumption of Alcohol; Poss. of Unlawful Pistol; Resisting Arrest

#10 - Failing to follow the advice and instructions of his agent

\*These charges constitute a willful violation\*

Sworn to and Subscribed before me  
this 19th day of December, 2003.

Steven B. Floyd  
Affiant

Daniel H. Lee (L.S.)  
Signature of Notary Public

Address: 182 Brown Street  
Lake City, SC 29560

9-18-12  
My Commission Expires

(Form Continues on Back)

RETURN

STATE OF SOUTH CAROLINA

COUNTY OF

Florence

THE STATE

against

Allen Stone

ARREST WARRANT

Offense: Violation of Probation

Offense Section: 24-21-430

Date: 12/19/2003

Officer and Agency: SC Department of Probation,  
Parole and Pardon Services

Steven B. Floyd

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name Allen Stone

Address 115 First Neck Rd.

Johnsonville, SC 29555

Phone

Sex Male Race White Height 503

Weight 120 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

e

on

with

Attorney for the Defendant.

Decision

BAIL

Date Set

Magistrate

Amount

Surety

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

Allen Stone

on the 19<sup>th</sup> day of Dec., 2003.

Deanna R. Carter

Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

(L.S.)

Signature of Judge

# 108

Form 16.1 - Arrest Warrant  
Form Approved by  
SC Attorney General  
Section 17-13-160  
March 15, 1979

**STATE OF SOUTH CAROLINA**  
**COUNTY OF Florence**

**Probation**

**ARREST WARRANT**

Indictment Number 95-GS-22-434

Warrant Number W-21-03-0630

State Identification No. (SID) 308858

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF Lake City, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that Allen Stone, did on the 19th day of December, 2003, violate the criminal laws of the State of South Carolina as set forth below:

**DESCRIPTION OF OFFENSE:**

Violation of probation conditions 1, 4, 6 and 10 as ordered in case # 95-GS-22-434 by the Georgetown County Court of General Sessions.

Now, therefore, you are empowered and directed to arrest the said defendant and bring Allen Stone 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. Done at Lake City, S. C. this 19th day of December, 2003.

Steven B. Floyd (L.S.)  
Signature of Probation and Parole Agent

**County of Florence**

**STATE OF SOUTH CAROLINA**

**AFFIDAVIT**

Personally appeared before me, one Steven B. Floyd, who, first being duly sworn, deposes and says that Allen Stone did within this County and State on the 19th day of December, 2003; violate the criminal laws of the State of South Carolina in the following particulars:

**DESCRIPTION OF OFFENSE:**

Violation of probation conditions 1, 4, 6 and 10 as ordered in case # 95-GS-22-434 by the Georgetown County Court of General Sessions

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

Case 105/ Indict.# 95-GS-22-00434

#1- Failing to report as instructed (Case was transferred from Berkeley County on 12/2/2003 and was advised to report on 12/3/2003 by 4:00PM - offender has failed to report since that date)

#4 - There is probable cause to believe the offender was in possession of a firearm based on his arrest on 12/7/2003 by the Florence County Sheriff's Office for Poss. of an Unlawful Pistol

#6 - Failing to notify agent of his arrest on 12/7/2003 by the Florence County Sheriff's Office for the following offenses: Driving Without a License; Public Consumption of Alcohol; Poss. of Unlawful Pistol; Resisting Arrest

#10 - Failing to follow the advice and instructions of his agent

\*These charges constitute a willful violation\*

Sworn to and Subscribed before me  
this 19th day of December, 2003.

Steven B. Floyd  
Affiant

Namir H. Lee (L.S.)  
Signature of Notary Public

Address: 182 Brown Street  
Lake City, SC 29560

9-18-12  
My Commission Expires

(Form Continues on Back)

RETURN

STATE OF SOUTH CAROLINA

COUNTY OF

Florence

THE STATE

against

Allen Stone

ARREST WARRANT

Offense: Violation of Probation

Offense Section: 24-21-430

Date: 12/19/2003

Officer and Agency: SC Department of Probation,  
Parole and Pardon Services

Steven B. Floyd

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name Allen Stone

Address 115 First Neck Rd.

Johnsonville, SC 29555

Phone

Sex Male Race White Height 503

Weight 120 Birth date

Social Security Number

INFORMATION ON WITNESSES

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

Name

Address

Phone

PRELIMINARY HEARING held by

Magistrate

on

with

Attorney for the Defendant.

Decision

BAIL

Date Set

Magistrate

Amount

Surety

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

Allen Stone

on the 19th day of Dec. 2003

+ Leanne R. Carter

Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

(L.S.)

Signature of Judge

110

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

STATE

-VS-

Allen F. Stone

IN THE COURT OF GENERAL SESSIONS

02 -GS- 15-758

Count

STANDARD CONDITIONS OF PROBATION

1. I shall report in person to the South Carolina Department of Probation, Parole and Pardon Services' office on the day of my sentencing or release, and as instructed by the Department; and I shall make complete and truthful reports to the Agent.
2. I shall not change my residence or employment without the consent of my Agent. Further, I shall allow my Agent to visit me in my home, at my place of employment, or elsewhere, at any time.
3. I shall not use controlled substances, except when properly prescribed by a licensed physician, nor consume alcoholic beverages to excess, nor enter establishments whose primary business is the sale and drinking of alcoholic beverages. Further, I shall submit to a urinalysis, blood test or provide forensic evidence when instructed by Agents of the Department, and I agree that any of these test results may be used as evidence in any hearing for the violation of the conditions of my supervision.
4. I shall not possess or purchase any firearms or other dangerous weapons, and I shall not associate with any person who has a criminal record, or any other person whom my Agent has instructed me to avoid.
5. I shall work diligently at a lawful occupation. Further, I shall notify my Agent if I become unemployed.
6. I shall not violate any Federal, State, or Local Law, and I shall immediately contact my Agent if I am ever arrested or questioned by a law enforcement official for any reason whatsoever.
7. I shall pay a supervision fee as determined by the Department.
8. I shall not leave the State without permission from my Agent. Further, if I am ever arrested in another state for violating these conditions, I hereby irrevocably waive all extradition rights I may otherwise have been entitled to and agree to return to South Carolina when directed by my Agent, the Court or by a warrant.
9. I shall obey all conditions of supervision set forth in this order including the payment of fines, restitution or other payments, and the service of any period of incarceration.
10. I shall follow the advice and instructions of my Agent and I agree to comply with any further conditions imposed by the Department or its Agents.
11. I agree to pay restitution and a statutory collection fee payable to the Department of Probation, Parole, and Pardon Services as directed by Agents of the Department. (20% collection fee charged)

I hereby certify that this statement of Conditions has been read and explained to the Probationer listed above and he/she has agreed to them.

I hereby certify that the Conditions above have been explained fully to me and in agreement thereto, I attach my signature:

This 31 day of January, 2001-2003

Allen Stone

Offender

[Signature]  
Agent

Offender's Address

115 Benson Street, Walterboro, SC 29488

Agent's Address

Offender's Address

(843) 549-5333

Agent's Phone Number

Offender's Phone Number

**South Carolina Department of Probation, Parole and Pardon Service**  
**Notice of Violation and Response**

|                           |
|---------------------------|
| County: <u>Berkley</u>    |
| Case#: <u>358656</u>      |
| Episodes (OE): <u>111</u> |
| Agent Badge: <u>111</u>   |

Offender Name: Allen Stone

Side: 358656

Type of Case: ☒ Probation ☐ Parole ☐ Community Supervision ☐ SFI ☐ YOA ☐ Other

Violation Category: ☒ Compliance ☐ Community Safety

No. of Previous Staffings: ☐ 1 ☐ 2 ☐ 3 or More

**THIS NOTICE IS TO FORMALLY ADVISE YOU THAT YOU HAVE FAILED TO ABIDE BY THE FOLLOWING CONDITIONS OF SUPERVISION:**

Details of Current Violation(s):  
(9) Failure to pay restitution - \$50.00 in all 10/11  
(5) Failure to pay court costs - \$34.00 in all 10/11  
(10) Failure to follow A.D. of the court

**UNDER AUTHORITY GIVEN TO S. C. PROBATION AND PAROLE AGENTS BY THE S. C. CODE OF LAWS, YOU ARE HEREBY INSTRUCTED TO COMPLY WITH THE FOLLOWING CHANGES:**

Violation(s) Determined to Exist? ☒ Yes ☐ No

☒ Continue Supervision

☐ Forward to Administrative Hearing Officer

Response:

☐ Modify Supervision Level:  
☐ High  
☐ Intensive \_\_\_\_\_ Days

☐ Exempt \$ \_\_\_\_\_

☐ Convert to PSE \$ \_\_\_\_\_ to \_\_\_\_\_ Hours

☐ Home Detention: \_\_\_\_\_ Days

☐ Electronic Monitoring \_\_\_\_\_ Days

☐ Reinstate PSE

☐ Impose PSE: \_\_\_\_\_ Hours

☒ Restructure Monetary Obligations (increase rate and/or frequency of payment). Much have Restructured All 10/11  
paid by 12/15/03. Restructured court costs - Total \$5.65 -  
Other: 434 to now paying on 1/15/03, payment to increase  
\$11.00 per month. Total amount to 02-05-15-75 to now  
paying on 4/15/03 increase to \$11.00 per month

**ENTERED**  
**ENCLOSURE**

You are hereby advised that failing to observe all conditions noted above could result in the Board/Court/Administrative Hearing Officer at any time revoking or modifying any condition of your supervision or imposing any lawful special conditions it deems proper. At any time within the period of supervision the Court or Board may, if it sees fit, impose any judgement, sentence, or reimpose the sentence it might have imposed previously.

This is to certify that I have read or have had read to me the order and the conditions set out therein. I agree to comply with such conditions of the order identified above during the period of my supervision. I have received a copy of this document.

|                                        |             |                                     |                       |                                                           |                       |
|----------------------------------------|-------------|-------------------------------------|-----------------------|-----------------------------------------------------------|-----------------------|
| Offender Signature: <u>Allen Stone</u> | Date: _____ | Agent Signature: <u>[Signature]</u> | Date: <u>12/14/03</u> | Supervisor/Hearing Official Signature: <u>[Signature]</u> | Date: <u>12/14/03</u> |
|----------------------------------------|-------------|-------------------------------------|-----------------------|-----------------------------------------------------------|-----------------------|

STATE OF **112** SOUTH CAROLINA

COUNTY OF Colleton  
STATE VS.

Allen J. Stone

AKA:

Race: W Sex: M Age:

DOB: [REDACTED] SS#:

Address: 522 Price Bridge Road  
Walterboro, SC 29488

DL# SID#:

± 54rs 710L disc, time  
IN THE COURT OF GENERAL SESSIONS  
INDICTMENT/CASE#:

02 -GS- 15 - 0758

A/W#: H119960

Date of Offense: 07/12/02

S.C. Code §: 16-21-80(2)

CDR Code #: 0151318

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS  
TO: POSSESSION STOLEN VEHICLE, VALUE > \$1000 < \$5000

in violation of § 16-21-80(2) of the S.C. Code of Laws, bearing CDR Code # 0151318

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

The charge is: ☒ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

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

ATTEST:

[Signature]  
Prosecutor

[Signature]  
Defendant

[Signature]  
Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed        years  
and/or to pay a fine of \$       ; provided that upon the service of        days/months/years and/or payment  
of \$       ; plus costs and assessments as applicable\*; the balance is suspended with probation for 5  
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of  
probation, which are incorporated by reference.

☒ The Defendant is to be given credit for 202 days/months/jail time.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:       

### SPECIAL CONDITIONS:

☒ RESTITUTION: ☐ Heard, ☐ Waived, ☒ Ordered

Total: \$ 2200.00 plus 20% fee: \$       

Payment Terms:       

☐ set by SCDPPPS       

Recipient: Cohen's Drywall Inc, c/o David C. Gaskins,

\*Fine: 1415 Old Hwy 52, Moncks Corner SC 29461

§14-1-206 (Assessments 100%)....\$       

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

§14-1-211(A)(2) (Surcharge).....\$       

§56-5-2995 (DUI Assessment).....\$       

3% to County (if paid in installments)...\$ 3.00

TOTAL.....\$ 103.00

[Signature]  
Clerk of Court/ Deputy Clerk

Court Reporter: Annette J. Mele

White - Clerk

Green - Corrections

Canary - Probation

Pink - Defendant

PTUP         
       days/hours Public Service Employment  
Obtain GED         
Attend Voc Rehab. or Job Corps         
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: TRANSFER TO  
BENNETT COUNTY

PRESIDING JUDGE [Signature]

Judge Code: 0111212

Sentence Date: 1/29/03

## South Carolina Department of Probation, Parole, and Pardon Services

## Request For And Consent To Release Information From Client's Records

NOTE: The execution of this form does not authorize the release of information other than that described below. The information requested on this form meets Federal and State standards and will authorize release of the information specified. All information obtained by use of this form is held in a confidential manner, however, it may be made a part of the Court records.

TO: (Agency releasing the information)

Name of Client:

Allan Stone

Social Security Number

Date of Birth

Name of agency, organization or individual who is to receive the requested information:

## CLIENT'S AUTHORIZATION

I hereby authorize \_\_\_\_\_ to release the following information from my records, to the agency, organization or individual named above.

## Information Requested:

- ☐ Medical information pertaining to the general health of the client.
- ☐ School records.
- ☐ Employment records.
- ☐ Financial records, information.
- ☐ Results from psychological evaluation/testing.
- ☐ Progress report while in treatment/counseling.
- ☐ Attendance records for treatment/counseling sessions.
- ☐ Closure statement including when and why case was closed.
- ☐ Other (specify) \_\_\_\_\_

Purpose for which the information is requested:

You may withdraw this consent at any time by written notification, provided information has not been requested. Without written notification to withdraw this consent, it expires one year from date of your signature.

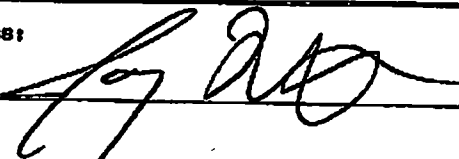
Date:

1/31/03

Client's Signature:

X Allan Stone

Witness:



Expiration Date:

1/28/08

STATE OF SOUTH CAROLINA )  
 )  
County of Colleton )

**INDICTMENT #02GS15-0758**

At a Court of General Sessions, convened on September 23, 2002  
the Grand Jurors of Colleton County present upon their oath:

**COUNT:**

## POSSESSION OF A STOLEN VEHICLE

(16-21-80) (2) (~~\$1,000/LESS THAN \$5,000~~)

(3) (\$5000.00) JAGT 9-5-02

That Allan F. Stone did in Colleton County on or about July 12, 2002,

knowingly and unlawfully, was in possession of a stolen vehicle, in violation

of Section 16-21-80(2), the value of the vehicle being ~~one thousand dollars but~~ <sup>greater than 5000.00 Dollars</sup> ~~but~~ <sup>JUST</sup> ~~less than~~ <sup>4-6-02</sup>

~~less than five thousand dollars.~~ John Haskins is the owner of the said stolen

vehicle valued at approximately \$8000.00  
JAN 4-5-02

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

**SOLICITOR**

WITNESSES

Cpl. Dolphus Pinckney

*LB*

ARREST WARRANT #:

H119960

Arrested on July 13, 2002

ACTION OF GRAND JURY

*TRUE BILL*

*A. Rachel Davis*

Foreman:

Grand Jury

VERDICT

Foreman:

Petit Jury

Date:

DOCKET #: 02GS15-0758

THE STATE OF SOUTH CAROLINA  
County of Colleton

COURT OF GENERAL SESSIONS

Term: September, 2002

THE STATE

vs.

*1*  
Allan F. Stone

INDICTMENT FOR

0381

POSSESSION OF A STOLEN VEHICLE

~~(16-21-80)(2) (\$1,000/LESS THAN \$5,000)~~

~~(16-21-80)(3) (\$5000.00)~~

JAJJ 9-5-02

FORM 5

STATE OF SOUTH CAROLINA

County of

Charleston

2017-CP-10-901  
IN THE COURT OF COMMON PLEAS

Allen Stone 267003

Full name and prison number (if any) of Applicant

v.

State of South Carolina

APPLICATION FOR  
POST-CONVICTION RELIEFFILED  
2017 FEB 22 PM 12:10  
CLERK OF COURTINSTRUCTIONS - 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.

- Place of detention South Carolina Dept. of Corrections MCI  
1516 Old Dillard Rd, Ridgerville, S.C. 29472
- Name and location of Court which imposed sentence Charleston G.S. Court  
100 Broad St, Charleston S.C. 29401
- Name(s) of co-defendant(s) (if any) 0
- The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:  
(a) Indictment 14-GS-10-03141  
Burglary 2nd 16-11-0312 (B)

- (b) Probation Revocation W-10-16-0102  
 (c) Full revocation 15 year sentence

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

- (a) 8-11-2014 15 Suspended to 5 years  
 (b) probation  
 (c) Violation march 21, 2016

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?  
☒

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

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

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

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

- i. 7-15-2014, sentence vacated, Roger Young  
 ii. 8-11-2014, 15ss to 5 year probation J. Nicholson  
 iii. 7-26-2016 full revocation 1st violation See No #10  
 (c) the date of each such result Judge K. Henington

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

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

- i. W-10-16-0102 Warrant, Feb 23, 2016  
 ii. probation violation, by Kelly K. Solar  
 iii. Public Defender, Conflict of interest.

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

- (a) was sentenced to probation 8-11-2014

- (b) completed program, Shields Ministries  
 (c) went to mental Health, as instructed

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

custody unlawfully:

- (a) false allegation by attorney's  
 (b) Not Guilty  
 (c) Conflict of interest, see Attached Sheets

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

- (a) the attorney lied to me, on 5 Video Visits  
 (b) the hearing officer lied in court  
 (c) Judicial misconduct in office & Court

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

- (a) any petition in a State Court under South Carolina Law? rehearing  
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO within 30 days ↑  
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)?  
 (d) any other petitions, motions or applications in this or any other Court? Yes

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. Withdrew Plea, Sentence Vacated: July 15<sup>th</sup> 2014  
 ii. JUDGE ROGER YOUNG, SAME DAY 7-15-2014  
 iii. VERBAL motion in COURT  
 iv. Motion of Probation Revocation Rehearing Notice  
 (b) the name and location of the Court in which each was filed: July 26<sup>th</sup> 2016  
 i. Charleston County General Sessions Court  
 ii. 100 Broad St, Charleston, SC, 29401  
 iii. 9<sup>th</sup> Judicial Circuit, Administrative

- iv. Circuit Court Judge K. Harrington  
 (c) the disposition thereof: VACATED ~~Aug~~ 2014-7-15
- ii. Sentenced again on 8-11-2014 by Judge Nicholson  
 iii. 15 years Suspended to 5 year probation  
 iv. mental Health, 90 meetings 90 days completed  
 (d) the date of each such disposition:  
 i. July 15<sup>th</sup> 2014 Judge Roger Young Vacated  
 ii. Aug 11, 2014 Judge Nicholson  
 iii. July 26<sup>th</sup> 2016 Full Revocation 15 years K. Harrington  
 iv. Aug 8<sup>th</sup> 2016 was my hearing date not documented.  
 (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:  
 i. Vacated by Judge Roger Young 7-15-14  
 ii. Judge Harrington Full Revocation 15 years  
 iii. Sentenced again by Judge Nicholson  
 iv. the following 8-11-14 to mental Health

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? YES,

A lot violation of probation, with no crimes  
with full revocation 15 years, motion releasing notice  
8-25-2016.

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

(a) which grounds have been presented:

- i. Conflict of interest  
 ii. clearly ineffective assistance of Council  
 iii. by Kelly K. Solar, false allegations that  
 iv. are clearly witnessed, and have proof of

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

- i. Violation probation hearing May 17<sup>th</sup> 2016  
 ii. sent to G.S. 8-8-2016, then changed again  
 iii. to July 26<sup>th</sup> 2016 to judge for 1 year S.C.C.  
and continue program + probation, mental Health

Daoshas pier program, plus mental Health  
weekly classes of Coping Skills, Evidence of Bias  
misconduct in office see requested transcript.  
Violation of 8<sup>th</sup> amendment, Cruel and Unusual punish

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

previously been presented:

8-25-2016

- (a) filed motion for Revocation Rehearing BroSe  
 (b) 8-25-2016, I am in ~~SCDC~~ SCDC where I  
 (c) do not have addiquit due process.

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

- (a) your arraignment and plea? Patricia Kennedy 7918  
 (b) your trial, if any? conflict of interest  
 (c) your sentencing? To Probation Patricia Kennedy 7918  
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? probation Violation Kelly Solar  
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? probation revocation

18. If you answered "yes" to one or more parts of (17), list Rehearing motion notice  
FILED 8-25-2016

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

- i. Patricia Kennedy Public Defender  
101 meeting st. 5<sup>th</sup> Floor Charleston SC 29401  
 ii. Kelly K. Solar Public Defender  
101 meeting St. 5<sup>th</sup> Floor Charleston SC 29401  
 iii. Martha K. Runey Public Defender, Same place  
Army Barch Turning Leaf program.

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

- i. Judge Roger Young 15 susp. to 5, SCDC 3 probation  
Sentence Vacated Same day. 7-15-2104  
 ii. Judge Nicholson 15 suspended to 5 probation  
to go back before him if I Violated  
 iii. Judge Harrington Full revocation, 15 years  
1st Violation, no criminal charges was  
in mental Health ward I.O.P. and Hospital  
MUSC, Trident, St. Frances, Charleston Center,

reduced to Burg 3<sup>rd</sup> non violent.

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

the original agreement (1) go on continue or  
~~trial by jury, Not Guilty, and~~  
~~attorney Kelly K. Solar to be Sanctioned and charged~~  
~~terminate the hearing officer for slander. Sibel~~

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

No agent Kessia Holmes

Revised 3/2003

STATE OF SOUTH CAROLINA )

County of Charleston )

VERIFICATION

I, Allen Stone 267003 Pro Se, 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.

Allen Stone 267003

SWORN to and subscribed before me this 13  
 day of September, 2016.

Nehssa D. Spivey (L.S.)  
 Notary Public

My Commission Expires: My Commission Expires December 1, 2025

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

I, Allen Stone 267003, 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.

Allen Stone 267003  
Applicant

SWORN or affirmed to and subscribed before me this

15 day of September, 2016.

Melissa D. Sping  
Notary Public

My Commission Expires: My Commission Expires December 1, 2025

0. State concisely the grounds on which you base your allegations, that you are being held in custody unlawfully.
1. My attorney was so ineffective, she purposely didn't mention the Administrative Hearing Agents, Kathleen Nadolny (1) year recommendation, continue there after, mental Health, on May 17, 2016 9:00 AM. at the July 26<sup>th</sup> 2016 hearing.
- 2 That date 5-17-16, a court date was set for Aug. 8<sup>th</sup> 2016 9:00 AM. Notice of probation Violation Hearing and Acknowledgment, Signed by Agent Albach and me Allen Stone on 5-17-2016.  
Kelly Solar Public Defender told me on several Video visits that I was very lucky to have Ms Kathleen's recommendation, 1 year continue.
3. Then Kelly Solar told me she had something to do on 8-8-2016, So somehow my court date was changed on 7-23-2016, to 7-26-2016, She change the Admin. Hearing Agent, and the court judge. There is no documentation for that court date 7-26-2016, there were no court reporter present at the hearing. The judge gave me full revocation 15 years.
4. Kelly Solar did not object to the prior offense that happened 1 year before the probation offense, that was not a violation, and the changed Hearing officer Kescia Holmes, told the judge I committed another crime while on probation, when I didn't, See warrant, W-10-16-0102,

5. Kelly Solar didn't tell me the Victim of the Dentist Office Scott McClary wrote an affidavit, notarized, stating that he didn't not oppose to my sentence being reduced, as long as I got Alcohol treatment.

I was in a treatment Program for 6 weeks when Kelly Solar pulled me out for court, changed dates and judges, and Hearing officers, I have the only documentations for Agent Albach and Hearing Agent Kathleen Wodolny.

6. There is a misconduct in office, with the S.C. Dept. Probation Hearing Agent Kescia Holmes, who did all this charging. Enclosed is copies of the only documentation signed by me my agent and hearing officer, with (1) year recommendation. here's where the misconduct in office come in I wrote a letter of appology to Amy Barch Turning Leaf Program, I have witness from the Daodas Program who gave me her address to write her, when I did that ever thing charged. How can these people change every thing, if I hadn't wrote the letter of appology I would have been out, Sept 1<sup>st</sup> 2016.

7. Kelly Solar was very ineffective when she wouldn't read the letter, she told me to bring from my group counselor Amanda Johnson in Daodas (Enclosed is a copy).

8. Kelly Solar was ineffective she wrote me a letter stating she was shocked when Judge Harrington didn't go along with the recommendation when the recommendation was not even brought up at the Revocation hearing, July 26<sup>th</sup>, 2016,
9. Kelly Solar was ineffective when I wrote her supervisor Ashley Pennington for a motion for a reconsideration of sentence, which I got Dec. 5<sup>th</sup>, 2016, and I told the judge that I didn't commit another crime (felony) as the Hearing Agent Kescia Holmes stated I did, and that's the only time Kelly Solar brought up the Victim's affidavit that he wanted my sentence reduced, also the motion was denied Dec 5<sup>th</sup>, 2016 Same day, I have letter from her with the order, from Judge Harrington Feb 6<sup>th</sup>, 2016, 2 months later which delayed my P.C.R. Application.
10. Kelly Solar was ineffective, by not appealing my hearing I requested within the (10) days I also wrote the Public Defender Ashley Pennington July 27<sup>th</sup>, 2016 the next day for an appeal.
11. Kelly Solar failed to get my medical/mental health records from the MUSC hospital and the institution of psychiatry I.O.P.'s during the only (3) months period I didn't report, I was on my death bed, and in the I.O.P.'s several times with suicidal attempts, and I called

my Agent Albach from M.U.S.C. I.O.P. and I wrote letter to Supervisor Agent Carter, with a money order for \$50.00 in March, 2016, through a attorney Jeff Youngman at the Shelter 180 place. The Detention Center, Charleston Doctor Hoffman was treating me and she got those records and read for (45) minutes, Kelly Solar didn't care, Probation Agent didn't care.

12. Kelly Solar conspired with Admin. Hearing Agent Kescia Holmes and Amy Barch to change the court dates, Judge and it was Kescia Holmes' schedule for July 26<sup>th</sup> 2016, when my original court date Aug 8<sup>th</sup> 2016, with the Neutral Hearing officer Kathleen Nadobny on May 17<sup>th</sup> 2016 Neutral Hearing Set the date. Signed by me and agent Albach, can they do this legally? (See enclosed copies).

13. Kelly Solar was very unprofessional, and failed to see what I was in jail for open container and Public intox, I had failure to appear for not going to court, because I was locked up in a Mental Health Institution of psychiatry, at Trident, at MUSC I.O.P., Palmetto Behavior Clinic, Rogers St. Francis during the (3) months in which I contacted them.

14. Kelly Solar didn't want to hear I was originally charged for burglary 2<sup>nd</sup> violent, when I only went in to a business, not a dwelling, to get out of the  
 11. chase should have been

no more than criminal trespassing because I did not take anything, I was merely intoxicated and freezing to death Jan. 17<sup>th</sup> 2014. 19° sleeting rain and I opened the front door to let the police in, I was asleep on the lobby floor when I woke up, I opened the front door to use the bath room, that's when the silent alarm went off. Kelly Solar didn't mention this to the judge.

15. Kelly Solar was ineffective Dec 5<sup>th</sup> 2016 when See saw me at the court house and said I wasn't getting my time cut.

6. Kelly Solar was lying when she said she had something to do on Aug 8<sup>th</sup> 2016 my court date for the 1 year recommendation.

7. Kelly Solar said in a letter that Judge Harrington usually goes along with a recommendation the recommendation was not presented, Therefore she was ineffective (see enclosed letter)

8. Kelly Solar was ineffective by not telling the judge or objecting to Mr Holmes lie about a prior offense, that I was exempted from fee's and 4 months I sat in jail at Berkeley County, from Supervisor Agent Carter on Nov 25<sup>th</sup> 2015.

9. Kelly Solar was ineffective by letting Hearing officer Kescia Holmes lie about me being in the Turning Leaf Program, when Aug 11, <sup>th</sup> 2014, there was not a Turning Leaf Program, So I was sent to Shields Ministries Program. Agent Holmes stated to the Judge that I violated the program I was never even in. "I completed Shields Ministries."
20. Kelly Solar was ineffective by Violation of my constitutional right to the 6<sup>th</sup> amendment.
21. Kelly Solar was ineffective for a misconduct in office she condoned with the defense Kescia Holmes (SCOPPPS) by not objecting to a change of court date, which changed my sentence from (1) year to 15 years the max. (I have copy of documents enclosed.)
22. Kelly Solar was ineffective by not objecting to any, issues, facts or allegations presented by the defense,
23. Kelly Solar was in violation of Maddock VS. State, my right to my Rule 5, motion of discovery, and record I requested under Maddock VS. State I have copies of some partial documents pertaining to me. "See also Enclosed," I asked for my records I didn't receive a copy of the letters I wrote, the notices of hearings and court dates I had sent, I will present in the P.C.R. application as well.

24. Kelly Solar was ineffective by letting, not objecting to the Administrative Hearing officer Kathleen Nadobny who had my neutral hearing May 17<sup>th</sup> 2016. Changed hearing officer to Kescia Holmes who was <sup>not</sup> at the neutral hearing and they worked together to change the court date as well, go before a harsher judge, and there is documentation for Kathleen Nadobny and no documentation for Kescia Holmes, is where the misconduct in office came in, I have filed a complaint against Kescia Holmes, SCDPPPS, and have a court appeal the ruling filed in the Charleston Clerk of Courts office but I have not been heard from. As put on docket.

25 Kelly Solar was ineffective when she told me in the beginning, first visit to get in the Daoudas Treatment Program at the jail, I did June 10<sup>th</sup> 2016 my birthday she visited me and told me I had 1 year recommendation, and the sentence of the Court would be finish the Daoudas program and I'd most likely stay at the jail instead of going to S.C.D.C. and continue probation. the fifth week in Daoudas, I got Amy Barch's address from one of the Counselors and wrote a letter to Amy Apologizing for things I said to her over the phone, that's when everything

was changed, until I wrote that letter of apology, then Kelly Solar said she had something to do on Aug 8<sup>th</sup> 2016, and I have asked the Head Public Defender Ashley Pennington, for an audio copy of the Video Visit's from those dates, she told me I'd ~~be~~ only get 1 year sentence, and I also asked Mr. Pennington what was Kelly Solar's Schedule Aug. 8<sup>th</sup> 2016. where she stated she had something else to do. (See letter from Ashley Pennington).

16. Kelly Solar was ineffective when the court date was changed on July 23<sup>rd</sup> 2016 to July 26<sup>th</sup> 2016, in such short notice, I wouldn't have time to write my friend/employer Wayne Crump, So I asked her to call him, So when I got to court on July 26<sup>th</sup> 2016, Kelly Solar my attorney said look around Mr. Wayne isn't here so she didn't call him, and he was going to court with me on Aug 8<sup>th</sup> 2016, Because I sent him a copy of the notice of hearing in the mail, To this day he was not notified, by my attorney, Very Very unprofessional, he has a (910) area code on his phone and answers all the time, if working, it automatically transfers to his wife's phone.

17. Kelly Solar was ineffective by not mentioning that I'd been in the mental Health institution during the times I didn't report, or she didn't even mention I had a mental health issue, or didn't mention to the judge that Judge J. C. Nicholson Sentenced me in Aug. 11<sup>th</sup>, 2014, to 15 years Suspended to 5 years probation, to be blood tested for mental Health, he made an oral order and written order to the probation office in which I never knew about until Aug. 2016, 2 years later with credit for 203 days in which I still haven't got. (See copy of Sentencing Sheet enclosed.)
18. Kelly Solar was ineffective by not asking the judge to give me credit for the time on probation, jail time 203 days prior to probation, 3 months in the Shields Ministry's program, (4) months in Berkeley County on a prior offense, before the probation, and the 2 years I was out on probation instead I got (15) years and only (129) days credit.
29. Kelly Solar was ineffective by not presenting the order that I did not sign, underneath where I suppose to sign state Unavailable to sign, when I was in the jail, on July 26<sup>th</sup>, 2016

and the judge Kristi Lea Harrington didn't sign the order until the next day July 27<sup>th</sup>, 2016, when I went before her July 26<sup>th</sup>, 2016, and there was not a court reporter in the Court room therefore, I have letter from the Clerk of Court stating there don't sometimes be one at a revocation hearing, and there was a tape recorder at the Neutral Hearing May 17<sup>th</sup>, 2016, where there was a (1) year recommendation, partially revoke continue thereafter. See attached copy of Administrative report. Why didn't they have a court reporter or tape recorder at the July 26<sup>th</sup>, 2016? Changed hearing date? Because there is clearly a misconduct in office, Public Defenders office, Turning Leaf CEO Amy Barch, and Agent Keacia Holmes.

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Patricia Kennedy Assist. Public Defender for July 15<sup>th</sup>, 2014 and Aug. 11<sup>th</sup>, 2014 on the same charge, Burglary 2<sup>nd</sup> Violent, enhanced by Assistant Solicitor Richard Waring.  
Indictment<sup>#</sup> No. 2014-GS-10-0341

1. Patricia Kennedy was ineffective by not objecting to the Nature of offense Burg. 2<sup>nd</sup> Violent

when there was no one in the business and it was not a dwelling, therefore the offense should have been negotiated to a lesser include offense, of Criminal trespassing or Burglary 3<sup>rd</sup> being it was a business and I didn't take anything I was merely getting out of the 19° freezing sleet and rain, drunk homeless and lost. I opened the front door, and the officer didn't know how I got in, I showed him, and I told him what took so long I had lost my cell phone outside, or I'd dialed 9-1-1.

1. Patricia Kennedy was ineffective by not getting me a psychological Evaluation as I requested, I was on psychotropic medication Risperdal 3 mg, Cogentin 1 mg, Gabapentin 600 mg 3x a day, and Transidone 100 mg.

2. Patricia Kennedy was ineffective on July 15<sup>th</sup> 2014 when she took me before Judge Roger Young and told me I'd get 5 year probation. I got 15 Suspended to 5 years SCPC, and 3 years probation and mental Health. I went back before Judge Young that afternoon and told him that was not the offer Patricia Kennedy told me so. Judge Young vacated my sentence. (see enclosed copy.)

1. Patricia Kennedy was ineffective Aug. 11, 2014.  
when I asked her to again please request  
a psychological Evaluation before Judge J.C.  
Nicholson, it was denied,
5. Patricia Kennedy was ineffective by not helping  
my defense, I told her I was not guilty of  
Burglary 2<sup>nd</sup> Violent, I wanted a jury trial.
2. Patricia Kennedy was ineffective for Violation  
of my civil rights to a defense counsel, of  
the 6<sup>th</sup> Amendment.
7. Patricia Kennedy was ineffective by coming  
to the jail begging me to take a plea.
3. Patricia Kennedy was ineffective for not  
even investigating the incident,
1. Patricia Kennedy was ineffective by not telling  
me this was a Charge of a Violent offense, when  
there was no weapon involved, no defendants  
involved, that this wasn't a dwelling, and there  
was no property taken. Which should be category  
non-violent, there were no crime therein,

10. Patricia Kennedy was ineffective for lack of professionalism in engaging in practice of law, resulting in neglect of legal matter and refusal to cooperate with investigation of this said offense.
1. Patricia Kennedy was ineffective by not giving me my Rule 5, motion of discovery my record by Violation of Sup. Ct. Rule (32) an inefficient office system does not excuse an attorney from neglecting a legal matter, it further charges her failure to cooperate with the commission investigations. Under Matter of Treacy 277 S.C. 514 290 S.E. 2d 240 (1982).
2. Patricia Kennedy was ineffective by Violation of my right to a jury trial, I was scared of her because she wanted me to go to prison, because that's what the Prosecution wanted, not what I requested.
3. Patricia Kennedy was ineffective for writing me a letter stating that she would represent me, not prosecute me,
4. Patricia Kennedy was ineffective by not objecting to any of the States, issues, facts,

allegation, untrue statements, or any possible negotiations, she could have pleaded to a lesser included offense, of Criminal Trespassing or Burglary 3<sup>rd</sup>.

5. Patricia Kennedy was the Lead Public Defender in Berkeley County and was demoted to Assistance Public Defender in Charleston County, this is a reasonable cause of conflict of interest and ineffective assistance of Counsel.

I am not guilty of this said charge of Burglary 2<sup>nd</sup> Violent and which I pray for a trial by jury, or reduce to Burglary 3<sup>rd</sup> more violent, and be given credit for the time I spent in Shield Ministries program where I was monitored and on probation 3 months 90 days 90 meetings, (4) months in Berkeley County for a prior offense that Patricia Kennedy would not handle like Judge Rupert Dennis said she should have to begin with, and the 7 months I did prior to getting the probation, Jan 17, 2014 to Aug 13<sup>th</sup>, 2014, and the time I've been in here since March 20<sup>th</sup>, 2016, until now which equals to a total of (26) months.

Public Defender Ashley D. Pennington was ineffective by not filing an appeal, when I wrote him a letter asking to appeal the next day, July 27<sup>th</sup>, 2016, he did get Kelly Solar to file a motion for a reconsideration of sentence, to no avail, she again didn't mention the Hearing officers recommendation, from the Neutral Hearing May 17<sup>th</sup>, 2016, Kathleen Nadolny. Dec 5<sup>th</sup>, 2016 is when I went to reconsideration, I froze in court, I didn't know how to present the facts, issues, & Allegation, so when I came back from court I filed a motion to amend the facts, issues & Allegation in writing, I had it stamped at the McDougal Cour. Inst. mailroom Dec. 14<sup>th</sup> 2016, and I have a receipt, where I mailed it to 100 Broad Street, Suite 106, Charleston, S.C. 29401, Clerk of Court, so I waited and waited to see if the Judge would hear what I had to say I didn't get to present, and the Clerk of Court never filed it or returned my copy of a filed motion, so I wrote the Clerks office asking about it, and they sent me a letter stating I need to send a self-addressed envelope with postage before they'll file, when they never requested it before, besides I am an indigent litigant, I have sent the Clerks office a copy of my financial records twice, indicating I am indigent, and can't pay for the copies, postage and fees,

So the clerk's office sent me on Jan 9<sup>th</sup>, 2017, my letter back asking for a copy of my Amended request to the judge within the 10 days of the reconsideration of hearing Dec 5<sup>th</sup> 2016, I mailed it Dec 14<sup>th</sup>, 2016. Clerk says it need to put warrant or indictment number on it was on there, so I write again and Feb 6<sup>th</sup>, 2017 the Clerk of Court, they said I need to send self addressed stamped envelope, so I waited & I waited, Finally I wrote the S.C. Court administration, and Feb 16, 2017, I finally recieved my Time Notice of Amended of a sentence of reconsideration that was filed on Jan 4<sup>th</sup>, 2017, and I still didn't get it back until Feb 16<sup>th</sup>, 2017, I sent a self-addressed stamped envelope and she returned my letter Jan 9<sup>th</sup> 2017, with nothing but the enclosed letter. Over (2) months, and everything I filed and sent before this was on time, and I never had to send a self-address envelope, because I sent a financial account from S.C.P.C. stating I am indigent. So at this time I'm sending Judge Kristi L. Harrington a copy explaining that I amended my reconsideration of Sentence motion within (10) days Dec 5<sup>th</sup>, 2016 to Dec 14<sup>th</sup>, 2016. I have a right to present these fact, issue, & allegation that are falsely presented by the Agent Kessia Holmes and the ineffectiveness of Attorney Kelly Solor, I do move for Sentence to be vacated, reduced to lower included offense, Criminal trespassing or Burglary 3<sup>rd</sup> with the Credit for time served (36) months. I forever pray.

Allen Stone 267003  
MacDougal Con. Inst  
04 10 00 00 00

|                            |   |                                |
|----------------------------|---|--------------------------------|
| STATE OF SOUTH CAROLINA    | ) | IN THE COURT OF COMMON PLEAS   |
| COUNTY OF CHARLESTON       | ) | FOR THE NINTH JUDICIAL CIRCUIT |
|                            | ) |                                |
| Allen Stone, SCDC # 267003 | ) |                                |
|                            | ) | Case No.: 2017-CP-10-901       |
| Applicant                  | ) |                                |
|                            | ) |                                |
| v.                         | ) | RETURN                         |
|                            | ) |                                |
| State of South Carolina    | ) |                                |
|                            | ) |                                |
| Respondent                 | ) |                                |
|                            | ) |                                |

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on February 22, 2017 would respectfully show this Court:

**I. Procedural Posture and Records**

During its June, 2014 Term of Court, the Charleston County Grand Jury indicted Applicant for Burglary, 2<sup>nd</sup> Degree, Violent (2014-GS-10-03141). Applicant was represented by Patricia Kennedy, Esquire. On July 15, 2014, Applicant appeared before The Honorable Roger Young and pled guilty as indicted. Judge Young sentenced Applicant to fifteen years in the South Carolina Department of Corrections, suspended on service of five years in the Department of Corrections and three years of probation. That plea was vacated.

On August 11, 2014, Applicant pled guilty in front of the Honorable J.C. Nicholson and the sentence reflected on Applicant's sentencing sheet is that Applicant was sentenced to fifteen years in the South Carolina Department of Corrections, suspended on five years of probation, with special terms of probation to include a requirement that Defendant complete the Turning Leaf outpatient program and continue medication for bi-polar, post-traumatic stress syndrome, and mental health. Applicant did not appeal his conviction.

On July 26, 2016, Applicant appeared before Honorable Kristi Harrington for a probation violation hearing. Kelly Solar, Esquire represented Applicant. Agent Keisha Holmes appeared on behalf of the State. Judge Harrington revoked Applicant's probation in full and Applicant was given credit for the time he had already served

On December 5, 2016, on Applicant's motion, Applicant appeared in front of the Honorable Kristi Harrington for a reconsideration of the sentence previously imposed as a result of the probation violation. At that time, Ms. Solar and Applicant made the Court aware of some discrepancies between the facts presented at the first hearing and the facts as they understood them, namely that Applicant had not been arrested for a felony charge while on probation but had only been arrested on minor misdemeanor charges; and that Applicant's Administrative Hearing Officer had recommended a revocation of 1 year and that he then be continued on probation. The Court then took the matter under advisement and ultimately denied the Motion for Reconsideration the same day.

Attached to this Return and incorporated by reference are the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the August 11, 2014 guilty plea transcript, the transcripts of the probation violation hearings, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## **II. Applicant's Filing**

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

1. "Not Guilty;"
2. "Conflict of Interest"

3. Misconduct on the part of Agent Kescia Holmes in that Agent Holmes failed to convey to the court the recommendation of the South Carolina Department of Probation, Parole, and Pardon's Hearing Officer based on Applicant's Administrative Hearing before that officer.
4. Ineffective Assistance of Plea Counsel
  - a. Counsel was ineffective for failing to object to the nature of the charge;
  - b. Counsel was ineffective for failing to have Applicant evaluated;
  - c. Counsel was ineffective for telling Applicant he would get a certain sentence, when he then received a different sentence from The Honorable Roger Young on July 15, 2015, which ended up being vacated for being different from the sentence promised by Counsel;
  - d. Counsel was ineffective for not preparing a defense when Applicant indicated he wanted a jury trial;
  - e. Counsel was ineffective for begging Applicant to take a plea;
  - f. Counsel was ineffective for not investigating Applicant's case;
  - g. Counsel was ineffective for failing to communicate that this was a violent offense;
  - h. Counsel was ineffective for neglecting Applicant's case;
  - i. Counsel was ineffective for failing to convey Applicant's Discovery;
  - j. Counsel was ineffective for failing to obtain Applicant a jury trial;
  - k. Counsel was ineffective for intimidating Applicant into a plea;

- l. Counsel was ineffective for writing Applicant a letter regarding the nature of her representation;
- m. Counsel was ineffective for failing to negotiate;
- n. Counsel was ineffective for failing to ensure facts presented at guilty plea were correct.

**5. Ineffective Assistance of Probation Violation Counsel for:**

- a. Counsel purposefully failing to mention the SCPPP administrative hearing officers recommendation at the July 26<sup>th</sup>, 2016 Probation Revocation Hearing;
- b. Counsel Re-scheduled the initial Probation Revocation Hearing to an earlier date than originally planned, for Counsel's own benefit, which caused the originally scheduled probation agent to be replaced with a different agent;
- c. Counsel failed to inform Applicant's witnesses of the rescheduled court date;
- d. Counsel failed to object when the probation agent listed offenses that occurred prior to Applicant being on probation as occurring during the probationary period;
- e. Counsel failed to object when Agent Kescia Holmes alleged untruths about Applicant's attendance at the Turning Leaf program;
- f. Counsel failed to communicate with client about the victim in the case offering mitigating information;

- g. Counsel Failed to read the letter she had previously requested from Applicant's group counselor;
- h. Counsel was ineffective for failing to appeal the Applicant's probation revocation after the July 26<sup>th</sup>, 2016 hearing;
- i. Counsel failed to subpoena and enter in as evidence the mental health records of applicant, including those showing Applicant's in-patient hospital and psychiatric facility stays;
- j. Counsel failed to introduce evidence of attempted compliance with his probation requirements;
- k. Counsel failed to convey to the Court the reason for Applicant's arrest;
- l. Counsel failed to review Applicant's underlying conviction;
- m. Counsel told Applicant an untruth;
- n. Counsel conveyed to Applicant that Counsel believed Judge Harrington usually accepted recommendations;
- o. Counsel failed to convey to the Court at the July 26<sup>th</sup>, 2016 the procedural posture in the Applicant's case;
- p. Counsel did not provide Applicant his discovery;
- q. Counsel told Applicant to participate in the DAODAS program at the jail, which resulted in a negative effect in his case;
- r. Counsel failed to ensure Applicant received appropriate credit for time served;
- s. Counsel failed to have Applicant sign necessary paperwork which caused an irregularity in the process.

### III. State's Position as to Applicant's Claims

#### A. State's Position As to the Claim of Ineffective Assistance of Probation Revocation Counsel.

Applicant alleges he was provided ineffective assistance of counsel at his probation revocation proceeding. A probationer has a right to counsel, though not a Sixth Amendment one. Turner v. State, 384 S.C. 451, 682 S.E.2d 792 (2009); see also Gagnon v. Scarpelli, 411 U.S. 778 (1973). Rather, Rule 602(a), SCACR, requires the appointment of counsel for indigent defendants in probation revocation proceedings. Nonetheless, "the same analysis for ineffectiveness that applies in other PCR proceedings involving claims against counsel should, by analogy, apply in PCR proceedings involving claims against probation counsel." Turner, 384 S.C. at 455, 682 S.E.2d at 794; see e.g., United States v. Wren, 682 F.Supp. 1237 (S.D.Ga. 1988). However, since probation revocation hearings are not a formal adversarial proceeding, "the Court must review counsel's performance in light of the particular type of proceeding involved." Wren, 682 F.Supp. at 1242; see also United States v. Cates, 402 F.2d 473, 474 (4th Cir. 1968) ("A revocation hearing is an informal proceeding and rules of evidence need not be strictly observed." (citing United States v. Williams, 378 F.2d 665 (4th Cir. 1967))).

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)). Respondent submits Applicant cannot satisfy his burden entitling him to relief based on the allegations raised in his application. However, the allegation of ineffective assistance of probation revocation 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).

**B. State's Position as to the Claim of Ineffective Assistance of Plea Counsel.**

As to the claim of ineffective assistance of plea counsel, the Application should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160. Specifically, the act requires as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision on appeal, whichever is later.

S.C. Code Ann. § 17-27-45(a).

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.”

Applicant pled guilty on August 11, 2014 and did not appeal his guilty plea or sentence. The Application was therefore due August 12, 2015. The current application was filed February 22, 2017 – well after the one-year statutory filing period expired. Therefore, the Application should be summarily dismissed as barred by the statute of limitations.

**C. State's Position as to Claim of Misconduct on the part of the Probation Agent.**

Applicant also alleges prosecutorial misconduct. Prosecutorial misconduct is not an issue for post-conviction relief. Rather, this allegation is a direct appeal issues that is procedurally

barred by S.C. Code Ann. § 17-27-20(b) (2003). Post-conviction relief is not a substitute for an appeal. Simmons v. State, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised this issue on appeal. The failure to do so has waived this allegation as grounds for relief. Regardless, it is applicant's burden to prove actual prosecutorial misconduct. Alabama v. Smith, 490 U.S. 794, (1989). Therefore, Respondent submits that this allegation be summarily dismissed.

**D. State's Position as to Claim of Not Guilty.**

Respondent requests that Applicant's claim of "not guilty" in his post-conviction relief application, arising out of his underlying guilty plea, 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. In this case, "Not Guilty," otherwise a claim of Actual Innocence, is not a claim cognizable under the act. A claim of Actual Innocence relies upon one of two theories, either evidence presented at plea or trial is insufficient to sustain a conviction, or there

is newly discovered evidence which requires vacation of the conviction or sentence in the interests of justice.

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). A claim that the evidence at a plea or trial is insufficient to sustain a conviction is improper for post-conviction relief because it could have been raised on direct appeal and is 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.

The other way to claim Actual Innocence is to make a claim of newly discovered evidence. The South Carolina Supreme Court set forth the two-factor test for determining the existence of newly discovered evidence after a guilty plea in Jamison v. State, 410 S.C. 456 (2014). The first factor requires Applicant to show that “the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea.” Id. at 470. The second factor requires Applicant to demonstrate that “the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the “interest of justice” requires the applicant’s guilty plea to be vacated.” Id. The Court goes on to say that “In other words, a PCR applicant may successfully disavow his or her guilty plea only where the interests of justice outweigh the waiver and solemn admission of guilt encompassed in a plea of guilty and the compelling

interests in maintaining the finality of guilty-plea convictions.” In this case, Applicant has failed to even make an allegation of newly discovered evidence.

For these reasons and pursuant to Rule 12(b)(6), SCRCP, the Court should dismiss the Application as to the Claim of “Not Guilty” for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

**E. State’s Position as to Claim of Conflict of Interest.**

Applicant also alleges a conflict of interest. “An actual conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendant’s.” Staggs v. State, 372 S.C. 549, 551, 643 S.E.2d 690, 692 (2007). The South Carolina Supreme Court has further stated that a conflict of interest occurs when “a defense attorney places himself in a situation inherently conducive to divided loyalties.” Lomax v. State, 379 S.C. 93, 101, 665 S.E.2d 164, 168 (2008).

Until a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for a claim of ineffective assistance of counsel arising from multiple representation. Langford v. State, 310 S.C. 357, 359, 426 S.E.2d 793, 795 (1993) (citing Cuyler v. Sullivan, 446 U.S. 335, 350 (1980)); see also Burger v. Kemp, 483 U.S. 776, 783 (1987). “The mere possibility defense counsel may have a conflict of interest is insufficient to impugn a criminal conviction.” State v. Gregory, 364 S.C. 150, 152–53, 612 S.E.2d 449, 450 (2005). The Applicant has failed to show an actual conflict of interest and his Application as to this claim should be dismissed.

**IV. State’s Assertion and Reservation of Rights**

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), SCRCPP. 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, SCRCPP. 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), SCRCPP.

**V. Motion for More Definite Statement**

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "specifically set forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

**VI. Request for Evidentiary Hearing**

Respondent therefore requests that this Court convene an evidentiary hearing on the allegation of ineffective assistance of probation revocation counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII. Conclusion

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

Respectfully submitted,

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Attorney General

W. JEFFREY YOUNG  
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August 7, 2017

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

ALLEN STONE, #267003 )

Applicant, )

vs )

STATE OF SOUTH CAROLINA, )

Respondent, )

IN THE COURT OF COMMON PLEAS

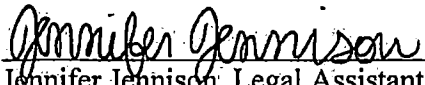
2017-CP-10-901

AFFIDAVIT OF SERVICE BY MAIL

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

James Kristian Falk, Esquire  
 Falk Law Firm, LLC  
 PO Box 1058  
 Charleston, SC 29402

DATED this the 7<sup>th</sup> day of August, 2017.

  
 Jennifer Jennison, Legal Assistant  
 For Respondent

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS  
COUNTY OF CHARLESTON NINTH JUDICIAL CIRCUIT  
2017-CP-10-0901

|                    |   |                |
|--------------------|---|----------------|
| ALLEN STONE,       | ) | TRANSCRIPT OF  |
|                    | ) | RECORD         |
| APPLICANT,         | ) |                |
|                    | ) |                |
| VS.                | ) |                |
|                    | ) | MARCH 1, 2018  |
|                    | ) | CHARLESTON, SC |
| THE STATE OF SOUTH | ) |                |
| CAROLINA,          | ) |                |
|                    | ) |                |
| RESPONDENT.        | ) |                |

B E F O R E:

HONORABLE THOMAS A. RUSSO

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

RASHEEDA CLEVELAND, ESQUIRE  
Attorney for the Respondent

JAMES K. FALK, ESQUIRE  
Attorney for the Applicant

\* \* \* \* \*

Ruth C. Weese, RDR

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\*\*NO EXHIBITS INTRODUCED\*\*

(Proceedings commenced at 11:56 a.m.)

MS. CLEVELAND: May it please the Court, Your Honor, the next matter is Allen Stone versus the State of South Carolina, docket number 2017-CP-10-901. Mr. Stone was indicted at the June 2014 term of the Charleston County grand jury for Burglary Second Degree violent offense. He was represented on that charge by Ms. Patricia Kennedy.

On July 15th, 2014, Mr. Stone appeared before the Honorable Judge Young and pled guilty as indicted. Judge Young sentenced him to 15 years imprisonment suspended upon the service of five years. That plea was vacated -- and he also was sentenced to three years probation. That plea was vacated and on August 11th, 2014, Mr. Stone pled guilty again in front of the Honorable Judge J.C. Nicholson and was sentenced to 15 years suspended upon the service of five years probation with special terms of probation to include a requirement that he complete the Turning Leaf outpatient program and continue medication for bipolar, post-traumatic stress syndrome and mental health issues. He did not appeal his conviction and on July 26th, 2016, Mr. Stone appeared before the Honorable Judge Kristi Harrington for a probation

1 violation hearing. He was represented at that  
2 hearing by Ms. Kelly Solar.

3 Judge Harrington revoked his probation  
4 in full and he was given credit for the time he had  
5 already served. Mr. Stone subsequently filed a  
6 motion to reconsider. That motion was denied on  
7 December 5th, 2016. He then filed this  
8 post-release conviction action on February 22nd,  
9 2017 and he is present in the courtroom today and  
10 represented by Mr. Falk. I would ask Mr. Falk to  
11 put the allegations on the record.

12 MR. FALK: Your Honor, Mr. Stone is  
13 alleging ineffective assistance of plea counsel,  
14 but we recognize that is barred by the limitations  
15 period. We can only go forward on the ineffective  
16 assistance of probation violation counsel. And he  
17 alleges that counsel purposely failed to mention  
18 that -- there was a failure to mention at the  
19 probation hearing, at the revocation hearing, the  
20 South Carolina Department of Probation and Parole  
21 had recommended a one year sentence, a one year  
22 revocation and that was not relayed to Judge  
23 Harrington at the revocation hearing.

24 Mr. Stone was prejudiced by the fact  
25 that the probation revocation hearing was

1 rescheduled and he was not given notice of the  
2 change or wasn't informed of the change in schedule  
3 of the dates for which it was scheduled for.

4           During the probation revocation hearing  
5 probation counsel failed to bring to the Court's  
6 attention his felony conviction had actually  
7 occurred prior to the probationary period. It  
8 wasn't a felony that he had picked up while he was  
9 on probation. And counsel failed to object when  
10 the probation agent alleged untruth about  
11 appellate's application at the Turning Leaf  
12 program. Counsel failed to communicate with the  
13 client about the victim in this case offering  
14 mitigation information, counsel failed to read a  
15 letter that she had previously requested from  
16 applicant's group counselor, failure to appear at  
17 applicant's probation revocation hearing. This is  
18 where I am talking about there was originally on  
19 July 26th, failed to subpoena and enter into  
20 evidence mental health records, failed to introduce  
21 evidence of the attempted compliance with the  
22 probation requirements and counsel failed to convey  
23 to the Court the reason for applicant's arrest.  
24 Counsel failed to review applicant's underlying  
25 conviction. Counsel told applicant an untruth.

1 Counsel told applicant to participate in the DAODAS  
2 program at the jail which resulted in a negative  
3 effect in this case. Counsel failed to insure  
4 applicant received appropriate credit for time  
5 served. Counsel failed to have applicant sign  
6 certain paperwork which caused him irregularities  
7 in the process. So we would call Ms. Solar to the  
8 stand.

9 THE COURT: All right.

10 KELLY SOLAR,  
11 having been first duly sworn, testified as follows:

12 THE CLERK: Please state your full name  
13 and spell your last name witness for the record.

14 THE WITNESS: Kelly Solar, S-O-L-A-R.

15 DIRECT EXAMINATION

16 BY MR. FALK:

17 Q. Ms. Solar, you were representing him at  
18 the probation revocation; is that correct?

19 A. Correct.

20 Q. What was his probationary sentence that  
21 he was serving?

22 A. He pled guilty in 2014, received  
23 15 years suspended to five years of probation.

24 Q. Okay. Was there any requirement that  
25 he had to participate in Turning Leaf?

1           A.    I don't believe -- let me look for the  
2 original violation report. I don't have -- I have  
3 a copy of the sentencing sheet. Let me look. I'm  
4 not aware of Turning Leaf. I knew that there was  
5 some issue with him going to Turning Leaf and he  
6 talked about Turning Leaf, but I don't remember  
7 that being an issue in the case. I might be wrong.  
8 Let me look.

9           Q.    I am looking at his administrative  
10 hearing. And I don't see anything about Turning  
11 Leaf.

12           THE COURT: It states in the transcript  
13 before Judge Harrington she specifically asked did  
14 he complete Turning Leaf program and they said he  
15 did.

16           THE WITNESS: They did? Okay.

17           THE COURT: Completed back in 2014.

18           THE WITNESS: That might have been  
19 before the plea. I'm not sure. Because per the  
20 administrative hearing they weren't violating him  
21 on that at least.

22           BY MR. FALK:

23           Q.    What was the basis for the violation?

24           A.    I don't see that. He stopped  
25 reporting. He failed to immediately contact his

1 agent for some arrests, couple of disorderly  
2 conducts.

3 Q. Did he give any explanation for his  
4 failure to report?

5 A. He told me that he was in and out of  
6 the hospital.

7 Q. Wasn't that in some type of outpatient  
8 or intensive outpatient treatment?

9 A. I don't know if it was treatment. He  
10 had just told me he was hospitalized.

11 Q. Did you provide those records?

12 A. No. A lot of times I can't get records  
13 very quickly for probation violations. We have a  
14 court date quicker than I can get any records. But  
15 I did tell the judge that that was an issue or I  
16 told the judge that he had been hospitalized, I  
17 believe.

18 Q. In your experience because of the  
19 abbreviated tract does the judge usually accept he  
20 had been in the hospital, because that certainly  
21 would be an issue.

22 A. Yeah. Actually if it is an issue the  
23 judge will often ask for records and then we will  
24 step down and he'll give me some time to get the  
25 records. At least that's how it has been. I have

1        been representing people only on probation  
2        violations for about the last ten years. Before  
3        that I practiced at the public's defender as a  
4        regular General Sessions. And I have found that  
5        when I have in the past asked the judges if they  
6        need those records to let me know. They usually  
7        accept what I say. I don't think in this  
8        particular case that the judge required them. I  
9        think that that was not an issue for her. I didn't  
10       ask her to give me time to get the medical records,  
11       but I didn't think it was an issue.

12                Q.    So this was more than just a failure to  
13       report a case, was it not?

14                A.    Yes. Let's see. He absconded. He  
15       told me it was due to also homelessness, the health  
16       issues. He also had been arrested several times.  
17       When you are on probation you are not supposed to  
18       get in any trouble obviously. And so probation was  
19       recommending one year revocation and then to  
20       continue his probation.

21                Q.    If I can just interrupt, how did it  
22       work? Do you represent him at the administrative  
23       hearing?

24                A.    No, not usually. No.

25                Q.    They go by themselves.

1 A. Usually.

2 Q. Go on.

3 A. So I will get a file. Oftentimes they  
4 will already have it. By the time I see them they  
5 will have an administrative hearing date. A lot of  
6 times attorneys don't go to it necessarily. Then I  
7 receive -- sometimes the case is taken care of at  
8 the administrative hearing. For whatever reason  
9 they continue it there or they close the case  
10 there. And then they are scheduled for -- a lot of  
11 times if they are bound over, which means they are  
12 sent to General Sessions, the case will be  
13 scheduled for a hearing in General Sessions court.

14 Q. Okay.

15 A. That's where I usually come in.

16 Q. I think you were relaying the other  
17 grounds. So it was the picking up the additional  
18 charges?

19 A. Yes.

20 Q. And the failure to report?

21 A. Correct.

22 Q. What were those additional charges?

23 A. I believe the State said a couple  
24 disorderly conducts.

25 Q. Was there also the question about the

1           Burglary Second?

2           A.    I don't think he was picked up for a  
3 burglary.  An additional Burglary Second?  No.

4           Q.    The burglary charge actually came prior  
5 to going on probation?

6           A.    Well, I suppose so.  I will tell you  
7 what I do at the public defender's office is I  
8 represent people on probation violations.  Usually  
9 if there is additional General Sessions charges I  
10 usually don't represent people on that.  So any  
11 additional General Sessions charges, usually one of  
12 those, unless it can be handled very quickly,  
13 usually the case is reassigned to another attorney.  
14 So I can only tell you that I don't believe he had  
15 any pending charges that were General Sessions.  
16 Sometimes they do have pending magistrate charges,  
17 but not General Sessions.

18          Q.    Is that the probation hearing you  
19 talked about?  Do you have the transcript from the  
20 probation hearing before Judge Harrington?

21          A.    Yes, I do.

22          Q.    If you look at page 2 where they were  
23 counting his charges, then going on to the top of  
24 page 3?

25          A.    Um-hmm.

1           Q.    So the Burglary Third Degree charge,  
2   that really did not happen while he was on  
3   probation; is that right?

4           A.    Right.  Says when he was originally  
5   arrested back in October of 2013.

6           Q.    Okay.

7           A.    Correct.  I mean he got that prior to  
8   being placed on probation which was 2014.

9           Q.    Was Judge Harrington aware of that when  
10  she was looking at -- aware that this was not a  
11  felony charge that he picked up while on probation?

12          A.    Are you asking me he got picked up  
13  for --

14          Q.    No, his concern is that Judge  
15  Harrington thought that he was --

16          A.    He had a pending charge?

17          Q.    That he picked up the burglary charge  
18  while on probation and that's what the information  
19  was that was relayed to Judge Harrington and was in  
20  part why she revoked him in full?

21          A.    I don't remember -- honestly I don't  
22  remember that being an issue, that particular  
23  burglary.  I don't remember that being an issue in  
24  anything that was said afterward.  You may correct  
25  me if I'm wrong, but I don't believe that that was

1 the big -- that was an issue.

2 THE COURT: I don't mean to interrupt,  
3 but guys, we got a transcript right in front of us.  
4 According to this, he was sentenced by Judge  
5 Nicholson on August the 11th of 2014, right?

6 MR. FALK: Um-hmm.

7 THE COURT: Then he goes through the  
8 colloquy. He says right here he talked to the  
9 judge, the Burglary Third Degree charge which he  
10 was originally arrested for back in October  
11 the 11th of 2013. So he told the judge that that  
12 was prior to him being placed on probation.

13 MR. FALK: Yes, Your Honor.

14 BY MR. FALK:

15 Q. Now, you had said that the Court had  
16 that -- his probation officer made a  
17 recommendation?

18 A. Well, actually I believe that was a  
19 recommendation from the administrative hearing and  
20 so, yes, that would be their position in court.

21 Q. So how did he get before -- and was  
22 Judge Harrington made aware of that was their  
23 position during the hearing?

24 A. I did not -- I didn't intentionally --  
25 I did not tell her that for two reasons. No. 1,

1 she gets all the paperwork in front of her so she  
2 gets a copy of the administrative hearing summary.  
3 The reason I think that I would not have mentioned  
4 is because we were not asking for a year. We were  
5 asking for just a continuation of probation. He  
6 did not want to -- I asked him would you be willing  
7 to say we have agreed upon the year. He said no,  
8 see if we can get less than a year. Time served  
9 and continue. So I didn't necessarily want the  
10 year so I didn't mention it. But it was right  
11 there in front of her. She had the paperwork in  
12 front of her and when you give a probation  
13 violation, the packet you get, the violation  
14 report, the administrative hearing summary, the  
15 judge also get records. So it was there in front  
16 of her. But I didn't tell her that.

17 Q. What was the basis for the motion to  
18 reconsider that was filed?

19 A. Well, she revoked in full which was the  
20 full 15 years. I filed a motion to reconsider  
21 because I felt -- I knew my boss, Ashley  
22 Pennington, had worked with him and I thought let  
23 me see if he can get some information that might  
24 help. So I filed the motion to reconsider. And I  
25 spoke to Ashley. They had spoken or he was in a

1 class. My boss, Ashley Pennington, every Friday he  
2 goes to a Shield Ministry and helps out with the  
3 program and it's His Way Ministry. He talks to a  
4 lot of guys there and sort of helps them through  
5 their situations. It's something extra that he  
6 does. So I knew that he had known Allen from that  
7 and so I asked him when I went -- after I filed the  
8 motion I talked to him about what do you think  
9 about Allen. Is there anything extra you can talk  
10 to me about. And he said he didn't really have a  
11 lot of contact with him, he was pretty quiet during  
12 those meetings so he really couldn't give me much  
13 to go on.

14 But I did go back to the victim and the  
15 victim was willing to provide a statement. That  
16 was during the time after the probation hearing  
17 when I was waiting for a court date. I did get the  
18 victim to agree to have -- for his recommendation  
19 to be just to -- as long as Mr. Stone would go to  
20 treatment that he would be fine with that. The  
21 victim was a dentist. I'm not sure, I don't  
22 remember where his practice is, but he said that he  
23 would be fine with that so we provided an affidavit  
24 for the judge.

25 We went back in front of the judge. I

1 made sure to tell her there was a one year  
2 recommendation and that the probation actually --  
3 the supervisor was taking care of it. She also  
4 said we will be okay with the year. We got her  
5 recommendation. We got the victim's statement  
6 saying he would be okay with continuing probation  
7 as long as Mr. Stone got treatment.

8 So we asked her to consider changing  
9 the sentence allowing him to be continued, at the  
10 very least even maybe amend her sentence to a year  
11 and she didn't.

12 Q. Was there some change in the court date  
13 for this original revocation hearing?

14 A. Yes. During that time Judge Harrington  
15 was wanting to do some extra court probation  
16 hearings to alleviate the jail just as a way to get  
17 some people moving out of the jail. And so she had  
18 picked a non-court week during that week to have  
19 probation violations. And so he was one of them on  
20 the list. I actually talked to him. I have gone  
21 through this. I don't have -- I know that I spoke  
22 to him. I know that I contacted him about it and  
23 he was actually very happy about the fact that he  
24 got in earlier than what his court date would have  
25 been.

1                   Unfortunately, it was in front of Judge  
2 Harrington who gave him the 15 years. But I will  
3 say I read recently a letter that he had written to  
4 me telling me he was appreciative of being able to  
5 get an earlier date.

6           Q. Did he ask you to have any witnesses  
7 available for his revocation hearing in your  
8 discussions?

9           A. I don't recall. I don't recall. The  
10 first hearing? I don't recall.

11          Q. Had you had any contact with the  
12 dentist prior to the first hearing?

13          A. Prior to the first hearing, no.

14          Q. So when did you contact him? How did  
15 that contact come about?

16          A. We contacted him after the first  
17 hearing before the motion to reconsider hearing.

18          Q. Because the dentist actually said that  
19 he just wanted him to get some treatment; isn't  
20 that correct?

21          A. Correct.

22          Q. Do you recall what the extent of any  
23 damage to his property was?

24          A. I don't. I wasn't the original --

25          Q. Restitution?

1           A.    I don't know. I wasn't the original  
2 attorney on the case.

3           Q.    I thought the transcript said about  
4 \$250, so it was minor damage?

5           A.    In this transcript?

6           Q.    Either from the plea or from the  
7 revocation? Would you be surprised that it's a  
8 couple hundred bucks?

9           A.    No.

10          Q.    Would that not have been something to  
11 prepare for this probation hearing to have talked  
12 to the victims?

13          A.    To have what?

14          Q.    For the revocation hearing would that  
15 not have been something to prepare for the hearing,  
16 talk to the victims in advance?

17          A.    Sometimes I do, sometimes I don't  
18 depending on whether I think that's going to help.  
19 It didn't help in this case obviously because when  
20 I did and we had the motion to reconsider she  
21 didn't change her sentence.

22          Q.    So he was originally scheduled for a  
23 revocation date later in time and Judge Harrington  
24 said there was an earlier date?

25          A.    Correct.

1           Q.    And when did you speak with him about  
2 moving to the earlier date?

3           A.    I went probably -- you know, I would  
4 have to look, but I know I went and spoke to him.  
5 And he was appreciative of that. I know that for a  
6 fact. I just have to look through. He provided --

7           Q.    If you can find it later, but I want to  
8 go back to this recommendation for the  
9 administrative hearing. You're saying you did not  
10 tell them about the year because you were trying to  
11 go lower than that?

12          A.    That's why I wouldn't -- didn't  
13 necessarily mention it. Because if we were  
14 agreeing to a year I would tell the judge, Judge,  
15 the recommendation is one year. We are in  
16 agreement, everybody is in agreement and we would  
17 ask that you go along with it. I didn't  
18 necessarily mention it because we were asking for a  
19 continuance, just to have his probation continued.  
20 In addition, she has the recommendation in front of  
21 her. It's not that she wouldn't have known it.  
22 Obviously the judge would have looked through the  
23 violation report and the administrative hearing.  
24 It is right in front of her so she would have had  
25 that recommendation.

1 But in the motion to reconsider I make  
2 sure, and I have read the transcript, I didn't tell  
3 her there was a recommendation of a year. In the  
4 motion to reconsider I made sure that she  
5 understood that.

6 MR. FALK: I have no further questions.

7 CROSS-EXAMINATION

8 BY MS. CLEVELAND:

9 Q. Just briefly. Ms. Solar, you testified  
10 earlier that Mr. Stone was arrested several times  
11 while on probation?

12 A. Yes.

13 Q. Do you recall how many times, a  
14 specific number?

15 A. The only thing -- I am looking at the  
16 transcript because I don't get a copy of the record  
17 or the rap sheet as part of probation so I can only  
18 look at the transcript based on what probation  
19 says. So he was arrested for something small. She  
20 said being on probation he was arrested eight  
21 times. I don't know if some of those -- for  
22 example, one of them is a public disorderly  
23 conduct, another public drunk. There's a failure  
24 to appear which I wouldn't necessarily count, and  
25 then she said another open container in March.

1       There are a couple failures to appear that she  
2       mentioned which they are not for new charges and  
3       then he was arrested for the Burglary Third. Seems  
4       like which he was originally arrested for back in  
5       2013, seems like maybe off bond or something like  
6       that because that wouldn't have -- but anyway, a  
7       handful of times, three or four new charges.

8               MS. CLEVELAND: Your Honor, I don't  
9       have anything else for this witness.

10              THE COURT: All right. Anything  
11       further?

12              MR. FALK: Nothing from this witness.

13              THE COURT: Thank you very much, ma'am.  
14       You may step down. Wait a minute if you could.

15              THE WITNESS: Do you want me to sit  
16       back down?

17              MR. FALK: Yes. May I approach?

18              THE COURT: Yes, sir.

19                              REDIRECT EXAMINATION

20       BY MR. FALK:

21              Q. Do you recall getting this -- receiving  
22       that letter from Mr. Stone?

23              A. Do you want me to read this?

24              Q. Just read through it and tell me if you  
25       recall getting it.

1           A.   (Witness complies with request.) First  
2 thing that he mentioned is he wants credit for time  
3 served.

4           Q.   Does that look -- do you recall getting  
5 that letter?

6           A.   I have not. I have seen so many  
7 letters from him that I can't -- I mean I'm sure I  
8 got it.

9           Q.   That's fine. I will talk about the  
10 letter through Mr. Stone then.

11          A.   Okay.

12          Q.   I was just trying to see if you could  
13 identify or do you recall?

14          A.   No, I can't identify it. I have got so  
15 many letters from him that it wouldn't surprise me  
16 if he sent this to me.

17               MR. FALK: Nothing further, Your Honor.

18               THE COURT: Thank you very much, ma'am.  
19 Do you have any other witnesses?

20               MR. FALK: Mr. Stone.

21               THE COURT: Mr. Stone, if you would  
22 come around and take the stand please, sir.

23                     ALLEN STONE,  
24 having been first duly sworn, testified as follows:

25               THE CLERK: Please state your full name

1 and spell your last name for the record.

2 THE WITNESS: Allen Stone, S-T-O-N-E.

3 DIRECT EXAMINATION

4 BY MR. FALK:

5 Q. Mr. Stone, can you help me, how many  
6 times did you speak with Ms. Solar prior to your  
7 revocation hearing?

8 A. Pretty much on a monthly basis. About  
9 once a month. I remember three of the times. I  
10 logged them in.

11 Q. What was your concern about the change  
12 in the date for the revocation hearing?

13 A. Well, I was thinking I was getting out  
14 earlier. It was a spur of the moment change of  
15 date. It was originally scheduled for August  
16 the 8th.

17 Q. Yes.

18 A. And it was documented at the new  
19 hearing May the 17th and I wasn't aware of the  
20 recommendation being one year yet because I didn't  
21 know about the year until she came to see me on my  
22 birthday June 10th. She also told me to get into  
23 the DAODAS program, get some help and I did. Kind  
24 of stressful.

25 Q. I can appreciate that, Mr. Stone.

1 That's why I am going to keep you a little focused  
2 here. You have some concerns in your PCR about  
3 changes in date?

4 A. A lot. I thought it was going to  
5 benefit me to get out earlier. You know, she said  
6 you got a one year recommendation and every time  
7 she visited me she said you are very lucky to have  
8 that recommendation because it's a year. Well, I  
9 was in the program and she come up there July 23rd  
10 and said the court date has been changed early. I  
11 am thinking I am getting out earlier, you know, and  
12 it was changed to the 26th. And she just notified  
13 me that Friday on the 23rd.

14 So I said well, how about calling my  
15 boss man and preacher helping me and I think I'm  
16 going home. (Crying.) They didn't even bring up  
17 the recommendation. The judge looked at me like I  
18 killed somebody and said full revocation and then  
19 the hearing lady wasn't even at the neutral  
20 hearing. I was so confused.

21 Q. What are you saying about the neutral  
22 hearing?

23 A. I didn't even know the lady's name. I  
24 thought it was Ms. Kathleen I went in front of May  
25 the 7th hearing. She told me about the

1 recommendation. So I went in the courtroom and my  
2 boss man wasn't there. Ms. Solar says look around,  
3 Mr. Stone. Mr. Wayne ain't here. Look around, Mr.  
4 Stone. The preacher ain't here. And then the  
5 judge came. Lakesha told the judge that I  
6 committed burglary while I was on probation and  
7 that's not so. It happened on July 13th, 2013.  
8 You know what I mean? And man.

9 THE COURT: Hold on a second. I don't  
10 mean to interrupt, but I want to take a short  
11 recess if that's okay.

12 MR. FALK: Thank you, Your Honor.

13 THE COURT: Let's just take a short  
14 recess and I want to speak with y'all. Mr. Stone,  
15 you can stay there if you would like. If you need  
16 to use the rest room, it will just be a short  
17 recess.

18 (Recess from 12:27 p.m. to 12:37 p.m.)

19 THE COURT: Thank you, ladies and  
20 gentlemen. Please have a seat. Mr. Falk, thank  
21 you for that courtesy. I didn't mean to interrupt  
22 your examination.

23 BY MR. FALK:

24 Q. Where we were, I was asking Mr. Stone  
25 because he had some concerns about this date change

1 and I think he feels like he was prejudiced by the  
2 date change because by the time that he got to  
3 court he would have wanted to have had his employer  
4 and some ministers here because of your alcohol  
5 problem.

6 A. There is someone I met in church at  
7 jail that was going to help me when I got out of  
8 the program getting situated. And so I sent him a  
9 copy of the director from the probation agent and I  
10 signed and I sent my boss man the copy for  
11 August 8th. So everything was changed on the spur  
12 of the moment on a Friday, July 23rd to go to court  
13 Monday, July 26th.

14 Q. Let me talk about your boss man. Who  
15 was that?

16 A. Mr. Wayne Krum.

17 Q. And what business does he have?

18 A. Well, actually he helped me when I was  
19 in the program. Actually let me explain to you  
20 about the program. I worked for him and I  
21 remodeled his house. He tried to help me get on my  
22 feet. And when I went to -- I was sentenced to  
23 Turning Leaf program. There wasn't no Turning Leaf  
24 program. Judge wasn't aware of it and was prepared  
25 for release so she put me in another program which

1 was Shield Ministry program which I successfully  
2 completed 90 days like I was supposed to. It was a  
3 year and-a-half of probation. So what were we  
4 talking about?

5 Q. I was asking you --

6 A. Mr. Wayne, he was there was for me. He  
7 helped me pay some of the weeks rent because you  
8 had to pay weekly rent. He helped me out with  
9 tools and stuff, work and make sure I had tools.

10 Q. Would he have been in a position to  
11 have offered you a job or offered you continued  
12 employment?

13 A. Yes.

14 Q. And so you were remodeling his house.  
15 Does he also have a business?

16 A. No, sir. He provided me with all the  
17 tools and stuff to work for myself. If I didn't  
18 have the right he would get it for me. He would  
19 carry me to work and all.

20 Q. And what was the name of your pastor?

21 A. Mr. Caswell.

22 Q. And where does he minister to you?

23 A. On King Street.

24 Q. What is the name of that?

25 A. Hope Assembly.

1           Q.   And you wanted both of them there to  
2 talk on your behalf?

3           A.   Yes, sir.

4           Q.   And what do you think that they would  
5 have told the Court?

6           A.   Well, I just wanted them there on my  
7 behalf. I wanted Mr. Wayne there to witness, be  
8 there as a witness as well. And you know.

9           Q.   Would they have told the Court that you  
10 had done your 90 meetings in 90 days?

11          A.   Yes. And also that I had remodeled his  
12 house and stuff like that, and you know, it would  
13 have helped me.

14          Q.   Okay.

15          A.   He was a great man. I mean he's  
16 retired Department of Defense and he had been  
17 around me for a long period of time. He knows me.

18          Q.   So you think that if someone  
19 respectable from the community would have come to  
20 court and spoken on your behalf this would have had  
21 an influence on the judge?

22          A.   Yes. And also I'd like to say that the  
23 recommendation was never brought to the judge's  
24 attention because Judge Harrington asked the court  
25 what the recommendation was and they said there was

1 no recommendation.

2 Q. You feel that you were prejudiced by  
3 that?

4 A. Yes, I was. And I also tried to get  
5 that transcript several, several times. I have had  
6 several court reporters write me letters saying  
7 they wasn't. And I got the letters from clerk of  
8 court stating that there wasn't one. She stated  
9 there wasn't a court reporter there, that normally  
10 there don't have to be one so I don't know.

11 Q. What other concerns did you have about  
12 Ms. Solar's representation? What about the -- so  
13 you feel that Judge Harrington made her decision to  
14 revoke in part because of the burglary?

15 A. Yes, I really do because I want you to  
16 know this and I want you to put this on record that  
17 Ms. Holmes told the judge that I committed Burglary  
18 Third while on probation. And she didn't really  
19 look at the warrant and see. She may have  
20 misunderstood that. Thought I did it and didn't  
21 realize the date was 2013 instead of 2014. So that  
22 is probably the main reason the judge give me full  
23 revocation. I took that as a false statement, you  
24 know what I'm saying? False allegation. And so I  
25 have been trying and trying to get that transcript.

1 I want that transcript so I can get her for  
2 slandering, for perjury in court.

3 Q. Let me back up for a minute. The  
4 period of time when you failed to report, where  
5 were you?

6 A. Well, approximately four or five times  
7 I was in the IOP at MUSC ten days at a time. You  
8 can't go nowhere. Just like you in jail. I was in  
9 the psychiatric ward in MUSC in the Palmetto  
10 Behavior Clinic. And I was in the Trident Clinic  
11 and the St. Francis Clinic. Also Charleston  
12 Center. One time I was in the emergency room. I  
13 was overdosed on alcohol poisoning and I was  
14 suicidal. A doctor came in the room and saw me  
15 with a TV cord pulled around my neck and put me in  
16 MUSC. I called up my probation agent while I was  
17 there at MUSC IOP and told him I can't come to  
18 report because they got me locked in MUSC. She  
19 said when you get out come and report. When I got  
20 out I was scared to report. I got back drinking  
21 again. Got back up in IOP again MUSC and several  
22 times and I tried to get that record and the doctor  
23 at the jail read that record for 45 minutes and  
24 said you shouldn't even be in front of me right  
25 now. You should be dead. I tried to kill myself.

1 I only missed three. You only had to report every  
2 three months so I missed one. So she said you got  
3 to start coming every two months. I started  
4 drinking.

5 When I relapsed everything fell apart.  
6 I lost all my tools. I lost everything. Went  
7 downhill real fast. I wound up in tent city.  
8 Ain't fun to be there. Then when I got out she  
9 told me to get DAODAS. I got in DAODAS program and  
10 the truth be known, I got my counselor and told  
11 her, I said I want -- you got to make amends to  
12 some people and I did one of my programs. I said  
13 some bad things to her and I wanted to apologize  
14 and I wrote her a letter of apology and when I did  
15 everything changed.

16 Q. That was the letter to Turning Leaf?

17 A. She did not have a program at that  
18 time. And then we had a disagreement. She sent me  
19 to that Shield Ministry program that the judge  
20 sentenced me to. The reason I wanted my boss man  
21 to come to court is because that place was for sex  
22 offenders. I'm not a sex offender, ain't had no  
23 sex charge in my life. And every time I get off  
24 work and walk down the road the people look at me  
25 like I was a sex offender. I didn't know it was a

1 sex offender program until later on. I told my  
2 boss I got to get out of here so he helped me move  
3 out. That's why I wanted him present here today to  
4 prove to you that he had helped me.

5 Q. Let's just try to connect the dots.  
6 You had made some comment about that Ms. Solar  
7 recommended that you go to?

8 A. DAODAS.

9 Q. That you were -- worked to your  
10 detriment. How was that, because doing the program  
11 they wanted to you contact Ms. Burke? Is that  
12 right, part of the DAODAS is the four step?

13 A. Yeah. I asked the counselor for her  
14 address, yes.

15 Q. And so how did that change things when  
16 you contacted the lady from Turning Leaf?

17 A. I wrote her on July 14th and July 23rd.  
18 The court date changed just that quick. Every time  
19 she visited me she said you are lucky to have that  
20 one year recommendation. I figure I am going to  
21 get my life together. This time Mr. Wayne come to  
22 see me every week and he wanted me to get my life  
23 together. That man come there and I cried. That's  
24 a real good man.

25 Q. May I approach, Your Honor.

1 THE COURT: Yes.

2 THE WITNESS: That same day I wrote a  
3 letter.

4 BY MR. FALK:

5 Q. What's that letter here? You have  
6 handed me the letter?

7 A. Yes, sir.

8 Q. What is that letter?

9 A. It's a letter I wrote to Ms. Kelly.

10 Q. Same day as what date?

11 A. July 26th. I just got this recently  
12 November the 13th because I opened my file in  
13 October 16th, but I didn't get these letters that I  
14 had written her until I wrote Mr. Ashley Pennington  
15 again October 2017. November I got all these  
16 letters and stuff from them.

17 Q. What is the significance of that  
18 letter?

19 A. I am asking will you please appeal this  
20 within ten days. I had written the clerk of court  
21 please appeal this.

22 Q. So you had asked to appeal?

23 A. Yes, or reconsideration or something,  
24 do something. I don't understand. You want me to  
25 read it?

1 Q. You did get the --

2 A. I didn't want to go back to  
3 reconsideration with her, with that lawyer because  
4 I got a letter. I asked give me another lawyer,  
5 please.

6 Q. So you wanted to appeal the probation  
7 revocation, but you didn't want to go forward with  
8 Ms. Solar?

9 A. Or back in front of the same judge, no.  
10 I had no choice about the same judge. I got a  
11 letter right here. I asked Ashley Pennington to go  
12 to court with me or give me another lawyer.

13 Q. You know --

14 A. Because she patted me on the back and  
15 said 15 years, I see will you, Mr. Stone. What  
16 kind of -- would you want her to go back to court  
17 with you on a reconsideration? I think not.

18 Q. And you have a relationship with Ashley  
19 Pennington because he appears at Shield Ministries?

20 A. Yes, he did, every Friday.

21 MR. FALK: Your Honor, I have no  
22 further questions.

23 MS. CLEVELAND: I have no questions for  
24 the witness, Your Honor.

25 THE COURT: All right. Mr. Stone,

1       thank you very much, sir. You may step down. Mr.  
2       Falk, anything further, sir?

3               MR. FALK: Your Honor, if you look at  
4       page 3 of the revocation transcript and that's  
5       where the discussion is made by the agent there  
6       about his arrest on the Burglary Third. And it's  
7       possible Judge Harrington could have mistaken how  
8       that was explained to her and it could have sounded  
9       like that he had picked up a felony charge while he  
10      was out on probation. Certainly that might be some  
11      reason to suggest why you would get such a harsh  
12      revocation. And the two things I think played the  
13      biggest role in the harshness of the result of the  
14      revocation was the fact that Judge Harrington may  
15      not have been fully aware of the fact that there  
16      was a recommendation made by the administrative  
17      board for one year, and then she is hearing that  
18      he's picking up this charge while he was on  
19      probation.

20             THE COURT: I don't know why probation  
21      does this, but they have a hearing officer that  
22      represents the probation department. There's a  
23      recommendation by the hearing officer, but  
24      oftentimes the agent in the courtroom has a  
25      different recommendation. And the only

1 recommendation that was given to Judge Harrington  
2 this date was that sentence beginning on page 3  
3 line 6, the agent is recommending a revocation and  
4 terminated.

5 MR. FALK: It's possible had Ms. Solar  
6 interjected there and --

7 THE COURT: And said that's not the  
8 recommendation of the --

9 MR. FALK: Right, of the tribunal. I  
10 think my client had certain struggles in life and  
11 there was a period of time for failure to report  
12 and it does sound like he had several admissions  
13 for outpatient or inpatient drug and alcohol  
14 treatment that maybe wasn't brought to the Court's  
15 attention. Possibly had Judge Harrington had a  
16 full understanding of the struggles that he had  
17 been through to the point, because I think most  
18 Burglary Third non-violent are probably more  
19 committed by somebody with all the symptoms of the  
20 same underlying problem of an alcohol problem.

21 So I think maybe had Judge Harrington  
22 been made more fully aware of some of whatever  
23 problems he had had getting to that point, the  
24 admissions to the alcohol which would have  
25 explained the absconding or failure to report and

1 sounds as though possibly she could have thought  
2 that he had picked up a felony while on probation  
3 and then reminding her that the administrative  
4 officer recommended one year where the agent was  
5 recommending something in full. Thank you.

6 THE COURT: Thank you, Mr. Falk.

7 MS. CLEVELAND: Your Honor, the State  
8 would submit that Mr. Stone has failed to meet his  
9 burden in proving that Ms. Solar was ineffective in  
10 any way. There was a basis for a violation. Mr.  
11 Stone stopped reporting. He was subsequently  
12 arrested. She testified that he was arrested  
13 several times, to be exact eight times, that he was  
14 arrested while on probation. Ms. Solar also  
15 testified that she didn't bring up the  
16 recommendation because they were not in agreement  
17 with it, that Mr. Stone wanted time served and to  
18 continue on his probation.

19 Ms. Solar also filed a motion for  
20 reconsideration. She attempted to get the victims  
21 to come in and make statements on Mr. Stone's  
22 behalf. However, Judge Harrington denied that  
23 motion to reconsider. Also Judge Harrington has  
24 wide discretion to revoke probation in full.

25 I would like to point the Court's

1 attention to State v. Lee. The citation number is  
2 350 S.C. 125. And in that case the courts have  
3 said that courts have a wide discretion in revoking  
4 probation and absent arbitrary abuse of discretion  
5 the revocation will not be disturbed on appeal.  
6 Judge Harrington's revocation, while it seem unduly  
7 harsh, it is within her sound discretion to have  
8 revoked Mr. Stone in full. It was likely due to  
9 the seriousness of his prior record and the new  
10 arrests that he received on probation and was not  
11 related at all to Ms. Solar's performance.

12 So we would ask Mr. Stone's application  
13 be denied and dismissed.

14 THE COURT: All right. Let me --  
15 before I give you my decision I'm going to make it  
16 clear that I agree with you, Ms. Cleveland, that  
17 Judge Harrington's decision in the full revocation  
18 was well within her discretion. Anything that I'm  
19 going to address has no criticism in any way with  
20 regards to Judge Harrington's decision. She was  
21 absolutely within her discretion to do it.

22 The concerns that I have, concerns that  
23 I deal with here as a judge that sits with regards  
24 to probation violation hearing, we do have wide  
25 discretion. We do have wide latitude and the thing

1 is that what we rely on -- because we have limited  
2 information in these hearings, we rely on the State  
3 to give us the full picture of the revocation and  
4 what they are and then for the defense counsel to  
5 effectively present mitigation so that when I have  
6 a range of zero to fifteen I know where I need to  
7 fall. When I hear from the State and from the  
8 defense and the concerns here I have is, and I'm  
9 not trying to be critical of the probation agent  
10 either because like I said earlier, this doesn't --  
11 they don't always agree with the hearing officer's  
12 recommendation.

13 But as I sit on these matters I want to  
14 know the hearing officer, what the recommendation  
15 is because the hearing officer hears a lot more  
16 during those hearings than simply the agent's  
17 position. And so the agent didn't bother to  
18 inform the Court that there was a recommendation  
19 from the hearing officer of a one year revocation.  
20 He simply stated the agent is recommending a  
21 revocation term and give him credit for time he has  
22 served and was silent as to any recommendation from  
23 the hearing officer.

24 Now, I do agree with what Ms. Kennedy  
25 mentioned earlier regarding or Ms. Solar mentioned

1 earlier with regards to the judge having the  
2 hearing officer's report. And I'm confident she  
3 did for the probation matter. What I don't know is  
4 if she read it or if she saw it or sometimes things  
5 get lost in these packets that are presented and at  
6 that point when the officer -- agent said that the  
7 agent recommends revocation and terminated, I think  
8 it would have been incumbent at that point for Ms.  
9 Solar to mention the fact that there was a  
10 recommendation by the hearing officer quite  
11 different than that even though they were seeking  
12 something less than the hearing officer  
13 recommendation. At that point, and I understand  
14 her position, you don't want to give the judge the  
15 other side recommending a year when you are trying  
16 to go for continuation of the probation.

17 But once the other side comes out and  
18 is actually recommending a 15-year revocation  
19 exists, it's incumbent at that point that you got  
20 to bring up that hearing officer's recommendation  
21 so that the judge if he or she has not looked at  
22 that report will then be aware of that. Now, but  
23 it was -- and then when you look at the colloquy  
24 regarding the prior record, he does mention that  
25 the charge he was arrested for on that felony

1 charge was in October of 2013. But when someone is  
2 in front of you on a revocation sometimes it could  
3 be confusing if you -- whether you are clear when  
4 they commit -- when did they enter that plea and  
5 when was -- was he on probation when that occurred  
6 and it is not clear here if Judge Harrington was  
7 clear as to whether or not the probation -- he was  
8 on probation during 2013 or not.

9 But out of an abundance of caution I  
10 think you got to make that judge aware of that and  
11 make that clear. That, Your Honor, he was -- and  
12 listen, there's no question he's in front of the  
13 judge, he's admitting the violation. That's  
14 another thing here that I think needs to be pointed  
15 out. So you're not -- I have people oftentimes  
16 that will come and deny that they have violated.  
17 That's not the case here. What we have was Ms.  
18 Solar was trying to just the mitigate the violation  
19 that yes, Judge, he's violated, but these are  
20 things in mitigation.

21 And even though they were then brought  
22 back on a motion to reconsider and then these very  
23 things that I am mentioning now were then brought  
24 up and detailed in that motion to reconsider and  
25 the judge clearly had the authority to consider it

1 or not consider it. I'm going to grant your  
2 application.

3 MR. FALK: Thank you, Your Honor.

4 THE APPLICANT: Thank you, Your Honor.

5 THE COURT: I think that the  
6 performance of probation counsel did create a  
7 situation whereby I think mitigation that may have  
8 been present to create a situation where Judge  
9 Harrington would not revoke in full was not  
10 presented effectively. I think it did have an  
11 effect as to the decision.

12 And so now, Mr. Stone, I'm not  
13 absolving you of all your responsibility. All I am  
14 saying is that I agree with your application. I'm  
15 going to put you back before the Court. Whatever  
16 hearing comes and you are still facing this  
17 probation violation. Do you understand that?

18 THE APPLICANT: Yes, sir.

19 THE COURT: So nothing changes. I am  
20 just putting you back in the place you were in  
21 prior to going before the judge on this probation  
22 violation. So you still have that to deal with.  
23 You still may be revoked for 15 years. I don't  
24 know.

25 THE APPLICANT: You're saying I am

1 going back to court for another hearing?

2 THE COURT: All I am saying is I am  
3 putting you back in front of another judge to have  
4 your probation violation dealt with straight up.  
5 In other words, you still have to address the Court  
6 and whatever judge you are in front of, that judge,  
7 he or she will still have the authority to find  
8 that you did violate your probation willfully and  
9 that they can still revoke the thing in full.

10 So I'm not saying that can't occur. I  
11 am just saying I'm going to give you the  
12 opportunity to appear back before the Court and  
13 have your probation matter heard.

14 THE APPLICANT: Thank you.

15 (Proceedings adjourned at 1:08 p.m.)  
16  
17  
18  
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25

## 1 CERTIFICATE OF REPORTER

2  
3 I, Ruth C. Weese, Registered Diplomate  
4 Reporter, do hereby certify that the foregoing  
5 transcript is a true, accurate, and complete  
6 record.

7 I further certify that I am neither related  
8 to nor counsel for any party to the cause pending  
9 or interested in the events thereof.

10 Witness my hand, I have hereunto affixed my  
11 official seal this 2nd day of November, 2018.

12  
13 *Ruth C. Weese*  
14

15 Ruth C. Weese

16 Registered Diplomate

17 Reporter  
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STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Allen Stone, SCDC # 267003

Applicant

v.

State of South Carolina  
Respondent

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2017-CP-10-901

ORDER GRANTING  
POST-CONVICTION RELIEF

FILED  
2018 JUN 25 PM 12:17  
JULIE J. ARMS, TRIC  
CLERK OF COURT

The above captioned matter comes before this court via an application for post-conviction relief (PCR) filed by Allen Stone. This Court convened an evidentiary hearing during the January 29, 2018 PCR term of court for the 9th Circuit. Applicant was present at the hearing and represented by James K. Falk, Esq., Rasheeda Cleveland, Esq. of the South Carolina Attorney General's Office, represented Respondent. For the reasons set forth below, the application for Post-Conviction Relief is GRANTED.

#### I. PROCEDURAL HISTORY

During its June, 2014 Term of Court, the Charleston County Grand Jury indicted Applicant for Burglary, 2<sup>nd</sup> Degree, Violent (2014-GS-10-03141). Applicant was represented by Patricia Kennedy, Esquire. On July 15, 2014, Applicant appeared before The Honorable Roger Young and pled guilty as indicted. Judge Young sentenced Applicant to fifteen years in the South Carolina Department of Corrections, suspended on service of five years in the Department of Corrections and three years of probation. That plea was vacated. On August 11, 2014, Applicant pled guilty in front of the Honorable J.C. Nicholson and was sentenced to fifteen years in the South Carolina Department of Corrections, suspended on five years of probation. Applicant did not appeal his conviction.

On March 21, 2016 an arrest warrant was issued against Applicant alleging various violations of Applicant's probationary sentence. An administrative hearing was convened May 17, 2016. Christian Aulbach was Applicant's probation agent who described Applicant's alleged probation violations. The administrative Hearing Officer, Kathleen Nadobny, found that Applicant: 1) failed to report as instructed; 2) moved without the consent of his agent; 3) failed to work diligently at a lawful occupation; 4) failed to immediately contact his probation agent after his release following five separate arrests; and, 5) failed to pay his supervision fee, drug test fee, and fine(s). The Hearing Officer recommended a partial one year revocation and thereafter that Applicant continue on probation.

On July 26, 2016, Applicant appeared before Honorable Kristi Harrington for a probation violation hearing. Kelly Solar, Esquire represented Applicant. Agent Aulbach was not present at the revocation hearing and instead the State was represented by Agent Keisha Holmes. Judge Harrington revoked Applicant's probation in full and Applicant was given credit for the time he had already served.

On December 5, 2016, and on Applicant's motion, Applicant appeared in front of the Honorable Kristi Harrington for a reconsideration of the sentence previously imposed as a result of the probation violation. The Court denied Applicant's motion to reconsider.

On February 22, 2017 Applicant filed his motion for Post-Conviction Relief. In his application for relief, Applicant alleged the following instances of ineffective assistance <sup>AS TO</sup> his probation revocation counsel: 1) Counsel purposefully failed to mention the SCPPP administrative hearing officers recommendation at the July 26<sup>th</sup>, 2016 Probation Revocation Hearing; 2) Counsel re-scheduled the initial Probation Revocation Hearing to an earlier date than originally planned, for Counsel's own benefit, which caused the originally scheduled probation agent to be replaced

with a different agent; 3) Counsel failed to inform Applicant's witnesses of the rescheduled court date; 4) Counsel failed to object when the probation agent listed offenses that occurred prior to Applicant being on probation as occurring during the probationary period; 5) Counsel failed to object when Agent Kescia Holmes alleged untruths about Applicant's attendance at the Turning Leaf program; 6) Counsel failed to communicate with client about the victim in the case offering mitigating information; 7) Counsel Failed to read the letter she had previously requested from Applicant's group counselor; 8) Counsel was ineffective for failing to appeal the Applicant's probation revocation after the July 26<sup>th</sup>, 2016 hearing; 9) Counsel failed to subpoena and enter in as evidence the mental health records of applicant, including those showing Applicant's in-patient hospital and psychiatric facility stays; 10) Counsel failed to introduce evidence of attempted compliance with his probation requirements; 11) Counsel failed to convey to the Court the reason for Applicant's arrest; 13) Counsel failed to review Applicant's underlying conviction; 14) Counsel told Applicant an untruth; 15) Counsel conveyed to Applicant that Counsel believed Judge Harrington usually accepted recommendations; 16) Counsel failed to convey to the Court at the July 26<sup>th</sup>, 2016 the procedural posture in the Applicant's case; 17) Counsel did not provide Applicant his discovery; 18) Counsel told Applicant to participate in the DAODAS program at the jail, which resulted in a negative effect in his case; 19) Counsel failed to ensure Applicant received appropriate credit for time served; and, 20) Counsel failed to have Applicant sign necessary paperwork which caused an irregularity in the process.

The evidentiary hearing in Applicant's Post-Conviction Relief action was held January 31, 2018 before this court. At the hearing, the Court heard testimony from Applicant and Applicant's probation revocation counsel, Kelly Solar, Esq. The Court also heard arguments from counsel for both the State of South Carolina and Applicant. After considering the witnesses' testimony, the

transcript from the July 26, 2016 and December 5, 2016 hearings before Judge Harrington, and arguments from Counsel, this Court makes the following findings of fact and conclusions of law.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

In Gagnon v. Scarpelli, 411 U.S. 778, 93 S.Ct. 1756 (1973) the United States Supreme Court recognized that even though a probation revocation hearing is not part of a criminal prosecution, a probationer at a revocation hearing faces a possible loss of liberty and therefore probationers must be accorded due process at a revocation hearing. Id. 93 S.Ct at 1759. Although the Court in Gagnon declined to rule that all indigent probationers in every revocation hearing have a right to court-appointed counsel, the Court stated that *counsel should be provided in cases where, after being informed of his right to request counsel, the probationer or parolee makes such a request, based on a timely and colorable claim (i) that he has not committed the alleged violation of the conditions upon which he is at liberty; or (ii) that, even if the violation is a matter of public record or is uncontested, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate, and that the reasons are complex or otherwise difficult to develop or present.* Id. at 93 S.Ct 1764. Although under the United States Constitution, a probationer does not have an absolute right to counsel, such an absolute right is afforded to all probationers in South Carolina State courts. Rule 602(a) of the South Carolina Appellate Court Rules provides in part: *every person charged with the violation of a probationary sentence shall be taken as soon as practicable before the Clerk of the Court of General Sessions in the county where the charges are preferred, or such other officer or officers as may be designated by the resident judge of the circuit, for the purpose of securing to the accused the right to counsel.* The effectiveness of probation revocation counsel should be measured by the same Strickland test as used in evaluating claims of ineffective assistance of trial counsel. See U.S. v. Wren, 682 F.Supp.

1237 (S.D. Ga 1988) (applying test adopted in Strickland v. Washington to a claim of ineffective assistance of probation revocation counsel in Federal Court).

Under Strickland, there is a two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989). 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. Therefore, the Applicant must overcome this presumption in order to receive relief. Strickland v. Washington; Cherry v. State.

Under the second prong of the Strickland test, Applicant must show that his trial 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. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). In other words, where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner 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. Id.; Strickland 104 S. Ct. at 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

Kelley Solar, Esq. represented Applicant before Judge Harrington on July 26, 2018 and again on December 5, 2018. Counsel provided Applicant with ineffective assistance by failing to

make the Court aware of the following material facts and considerations before the Court rendered its decision to revoke Applicant's probation;

1. Attorney Solar' failed to advise the Court at Applicant's probation revocation hearing that the administrative Hearing Officer recommended a partial one year revocation and that Applicant thereafter continue on probation. At the July 26, 2016 hearing, Agent Holmes of South Carolina's Office of Probation, Parole and Pardon advised the Court that *the agent is recommending a revocation and terminate*. (July 26, 2018 transcript p. 3 l. 6-7). Neither Agent Holmes nor Attorney Solar advised the Court of the Hearing Officer's substantially more lenient recommendation.

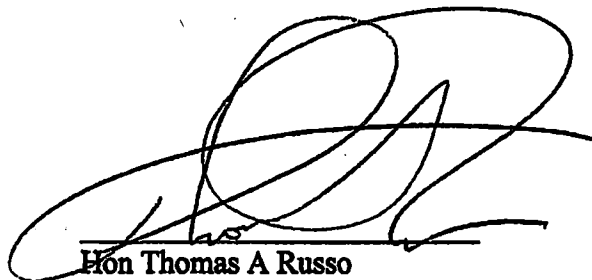
2. At the July 26, 2016 hearing, the Court asked Agent Holmes whether Applicant had any arrests and the agent advised that Applicant had several arrests. (July 26, 2018 transcript p. 8 l. 6-7). Earlier in the hearing, Agent Holmes described Applicant's arrests since the imposition of Applicant's probationary sentence. In describing Applicant's arrests, Agent Holmes stated the following: *...on July 20<sup>th</sup> of 2015, for failure to appear for court; November 13<sup>th</sup> of 2015, for burglary third charge, which he was originally arrested back in October 11<sup>th</sup> of 2013* (July 26<sup>th</sup> transcript p. 2 l. 25- p. 3 l. 3). It is reasonable to conclude that Agent Holmes's description of Applicant's post-conviction arrests may have caused the Court to believe that Applicant was arrested on a felony charge, Burglary 3<sup>rd</sup>, while he was on probation. As described in the Hearing Officer's report, Applicant was arrested 5 times on misdemeanor charges since Applicant's August 11, 2014 sentencing date: twice for failure to appear in court, twice for Public Drunkenness, and once for Disorderedly Conduct. On November 13, 2015 Applicant was convicted for Burglary 3<sup>rd</sup>; however, he was originally arrested on this charge on September 11, 2013, which was before he was put on probation. Attorney Solar. was ineffective for failing to clarify to the Court that Applicant was not arrested for on a felony charge while he was on probation.

3. Attorney Solar also failed to provide the Court with an explanation <sup>of</sup> why Applicant failed to appear in Court on the two occasions leading to his arrest on those charges. The Court is satisfied that Applicant's failure to appear was the result of either his incarceration on other charges or his hospital admissions related to his alcoholism.

### III. CONCLUSION AND ORDER OF THE COURT

The Court finds that, but for attorney Solar's failure to advise the Court of the administrative Hearing Officer's recommendation of a one year partial revocations; failure to advise the court that Applicant was not arrested on a felony charge while on probation; and failure to supply the court with mitigating information regarding Applicant's two arrests for failure to appear, it is likely that Judge Harrington would not have revoked Applicant's probation in full. The appropriate remedy for Applicant therefore is that he be granted a new probation revocation hearing before a different Circuit Court Judge.

IT IS SO ORDERED!



Hon Thomas A Russo  
Presiding Judge, Charleston Common Pleas

Date: 6/18/18  
Florence, SC

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

ALLEN STONE, #267003 )

Plaintiff, )

vs. )

STATE OF SOUTH CAROLINA )

Defendant. )

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

CASE NO: 2017-CP-10-0901

**MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET****Plaintiff's Attorney:**

James K. Falk, Esquire

Address: Falk Law Firm, LLC

Post Office Box 1058

Charleston, South Carolina 29402

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_ Other: \_\_\_\_\_

**Defendant's Attorney:**

Megan Harrigan Jameson, Esquire.

Address: South Carolina Attorney General's Office

Post Office Box 11549

Columbia, South Carolina 29211

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_ Other: \_\_\_\_\_

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- ☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

**SECTION I: Hearing Information**

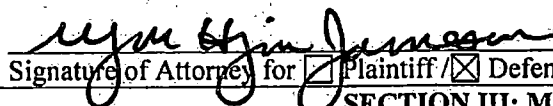
Nature of Motion: \_\_\_\_\_

Estimated Time Needed: \_\_\_\_\_

Court Reporter Needed: ☐ YES / ☒ NO**SECTION II: Motion/Order Type**

- ☐ Written motion attached
- ☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

  
Signature of Attorney for ☐ Plaintiff / ☒ Defendant

July 9, 2018

Date submitted

**SECTION III: Motion Fee**☐ PAID - AMOUNT: \$ \_\_\_\_\_

EXEMPT:

(check reason)

- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☒ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☐ Proposed order submitted at request of the court; or,  
reduced to writing from motion made in open court per judge's instructions
- Name of Court Reporter: \_\_\_\_\_
- ☐ Other: \_\_\_\_\_

**JUDGE'S SECTION**☐ Motion Fee to be paid upon filing of the attached order.☐ Other: \_\_\_\_\_

JUDGE CODE \_\_\_\_\_

Date: \_\_\_\_\_

**CLERK'S VERIFICATION**

Collected by: \_\_\_\_\_ Date Filed: \_\_\_\_\_

☐ MOTION FEE COLLECTED: \$ \_\_\_\_\_☐ CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Allen Stone, SCDC No. 267003,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2017-CP-10-0901

**RESPONDENT'S MOTION TO  
RECONSIDER, ALTER, OR AMEND  
PURSUANT TO RULE 59(e), SCRCF**

This matter comes before this Court by way of an application for post-conviction relief filed on February 22, 2017, by Allen Stone ("Applicant"). A hearing on this application was held in the Charleston County Court of Common Pleas before the Honorable Thomas A. Russo, circuit court judge. By written order filed June 25, 2018, and received by Applicant on June 27, 2018, this Court granted the post-conviction relief, vacated the revocation of Applicant's probation, and remanded the matter to the Charleston County Court of General Sessions for a probation revocation hearing before a different circuit court judge, finding probation revocation counsel was ineffective for failing to advise the Court of the administrative hearing officer's recommendation of a one year partial revocations; failing to advise the court that Applicant was not arrested on a felony charge while on probation; and failing to supply the court with mitigating information regarding Applicant's two arrests for failure to appear.

Respondent, by and through undersigned counsel, making its Motion to Reconsider, Alter, or Amend, pursuant to Rule 59(e), SCRCF, would respectfully show unto this Court:

#### **PROCEDURAL HISTORY**

During its June 2014 term, the Charleston County Grand Jury indicted Applicant for second-degree burglary (violent) (2014-GS-10-03141). The charge stemmed from an incident on

January 17, 2014, where law enforcement officers with the North Charleston Police Department responded to a dental office at approximately 1:30 a.m. and witnessed Applicant carrying a bag containing drugs and other items from inside the dental office. Assistant Public Defender Patricia Kennedy of the Charleston County Public Defender's Office represented him. Assistant Solicitor Thomas R. Waring, II, of the Ninth Circuit Solicitor's Office prosecuted the case.

On July 15, 2014, Applicant appeared in the Charleston County Court of General Sessions before the Honorable Roger M. Young, Sr., circuit court judge, and pled guilty as indicted. Judge Young sentenced Applicant to fifteen years imprisonment suspended on service of five years imprisonment and three years of probation. Later that same day, Applicant and counsel reappeared before Judge Young and requested that the plea be vacated to allow Applicant time to enter a treatment program in the hope of avoiding an active term of imprisonment.

On August 11, 2014, Applicant again appeared in the Charleston County Court of General Sessions to enter a guilty plea, this time before the Honorable J.C. Nicholson, circuit court judge. Judge Nicholson sentenced Applicant to fifteen years imprisonment suspended on the service of five years of probation, with special terms of probation to include a requirement that Applicant complete the Turning Leaf outpatient program and continue medication for bipolar, post-traumatic stress syndrome, and mental health. Applicant did not appeal his conviction.

On July 26, 2016, Applicant appeared in the Charleston County Court of General Sessions before Honorable Kristi L. Harrington, circuit court judge, for a probation violation hearing. Assistant Public Defender Kelly Solar of the Charleston County Public Defender's Office represented Applicant. Probation Agent Keisha Holmes of the South Carolina Department

of Probation, Parole, and Pardon Services (SCDPPPS) appeared on behalf of the State. Agent Holmes informed the court that Applicant had failed to report since December 2015, changed his address without notifying his probation agent, failed to provide proof of employment, and was arrested eight times ("One by Hanahan Police Department on February 8th of 2015, for violating town ordinance. He was also arrested on June 30th for public disorderly conduct. He was arrested again on July 8th of 2015 for public drunk; on July 20th of 2015, for failure to appear for court; November 13th of 2015, for burglary third charge, which he was originally arrested for back in October 11th of 2013. He was also arrested on November 15th of 2015, for failure to appear as well; and an open container on March 20th of 2016.") (July 26, 2016 Tr. p. 2-3). Agent Holmes informed the court "the agent is recommending a revocation and terminate" along with credit for time served. (July 26, 2016 Tr. p. 3). Applicant responded to the court that he had violated his probation. (July 26, 2016 Tr. p. 3, 5). In mitigation, counsel Solar informed the court that Applicant had stopped reporting (and presumably failed to update his address) because he was homeless and living in Tent City downtown. (July 26, 2016 Tr. p. 3). She also informed the court that Applicant had physical and mental health problems, as well as alcohol dependency. (July 26, 2016 Tr. p. 3). She also informed the court that Applicant was seeking treatment for substance abuse. (July 26, 2016 Tr. p. 4-5). She also highlighted to the court that Applicant did not owe any restitution and believed he could successfully fulfill the requirements of probation if given the chance. (July 26, 2016 Tr. p. 5). Agent Holmes informed the court that Applicant would traditionally be a "perfect candidate" for mental health court, but was not eligible based on the charge. (July 26, 2016 Tr. p. 7-8). Agent Holmes also informed the court that Applicant did complete the Turning Leaf program. (July 26, 2016 Tr. p. 8). Thereafter, Judge Harrington revoked Applicant's probation in full. (July 26, 2016 Tr. p. 8).

Counsel Solar then filed a motion to reconsider the probation revocation, and on December 5, 2016, the parties reappeared before Judge Harrington for a hearing on this motion. Applicant was again represented by counsel Solar and Agent Holmes appeared on behalf of SCDPPPS. At the hearing, counsel Solar presented the court with an affidavit from the victim stating he did not oppose a reduction of the sentence if Applicant received treatment for his alcohol dependency. (Dec. 5, 2016 Tr. p. 4). She also highlighted that SCDPPPS did not oppose the reduction and the original recommendation was a one-year revocation with credit for time served and continued probation. (Dec. 5, 2016 Tr. p. 5). Applicant highlighted to the court that he did not commit any felonies while on probation, but did acknowledge he had been arrested numerous times while on probation for a variety of offenses. (Dec. 5, 2016 Tr. p. 5-6). Agent Holmes responded that Applicant was arrested eight times while on supervision. (Dec. 5, 2016 Tr. p. 7-8). Counsel Solar then reminded the court for a third time that SCDPPPS hearing officer had only recommended one year of revocation. (Dec. 5, 2016 Tr. p. 8). The court then took the matter under advisement and ultimately denied the motion for reconsideration the same day.

#### **CURRENT ACTION**

On February 22, 2017, Applicant filed an application for post-conviction relief, alleging ineffective assistance of plea counsel and probation revocation counsel. On August 7, 2017, Respondent served its return, requesting an evidentiary hearing on Applicant's claims of ineffective assistance of probation revocation counsel and moving for summary dismissal of his claims of ineffective assistance of plea counsel because the application was filed beyond the one year statute of limitations as set forth in S.C. Code Ann. § 17-27-45.

An evidentiary hearing was convened in the Charleston County Court of Common Pleas

on March 1, 2018, before the Honorable Thomas A. Russo, circuit court judge.<sup>1</sup> Applicant was present at the hearing and represented by James K. Falk, Esquire. The State was represented by Assistant Attorney General Rasheeda N. Cleveland. Applicant and his former counsel Solar both testified. At the conclusion of the hearing, this Court orally granted relief, finding counsel Solar was ineffective in her handling of Applicant's probation revocation and granted Applicant a new probation revocation hearing. The Court requested Applicant draft a proposed order.

By written order filed June 25, 2018, this Court granted the post-conviction relief, vacated the revocation of Applicant's probation, and remanded the matter to the Charleston County Court of General Sessions for a probation revocation hearing before a different circuit court judge, finding probation revocation counsel was ineffective for failing to advise the Court of the administrative hearing officer's recommendation of a one year partial revocations; failing to advise the court that Applicant was not arrested on a felony charge while on probation; and failing to supply the court with mitigating information regarding Applicant's two arrests for failure to appear. Respondent received copy of the order on June 27, 2018. This motion to reconsider, alter, and amend pursuant to Rule 59(e), SCRCP, follows.

### **ARGUMENT IN SUPPORT OF RECONSIDERATION**

Respondent moves this Court to reverse its earlier decision and deny post-conviction relief where Applicant failed to meet his burden of establishing counsel was constitutionally ineffective.

"In South Carolina, however, all persons charged with probation violations have a right to counsel and must be informed of this right pursuant to court rules and case law." Turner v. State, 384 S.C. 451, 454, 682 S.E.2d 792, 793 (2009) (citing Barlet v. State, 288 S.C. 481, 483,

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<sup>1</sup> The order granting relief erroneously lists the hearing date as "during the January 29, 2018 PCR term of court for the 9<sup>th</sup> Circuit." The Honorable Maite Murphy presided over this term and Applicant's case did not proceed forward.

343 S.E.2d 620, 621 (1986); Rule 602(a), SCACR). Although a probationer does not have a Sixth Amendment right to counsel, the same traditional Strickland standard applies, requiring an applicant asserting his probation revocation counsel was ineffective to establish both that counsel's performance was deficient and that he was prejudiced by this deficiency. Turner, 384 S.C. at 455, 682 S.E.2d at 794 ("We now hold that because a probationer has a right to counsel, albeit not a Sixth Amendment right, the same analysis for ineffectiveness that applies in other PCR proceedings involving claims against counsel should, by analogy, apply in PCR proceedings involving claims against probation counsel."). Under Strickland, an applicant must first prove that counsel's performance was deficient as measured by its "reasonableness under professional norms." Id. Second, an applicant must establish that counsel's deficient performance 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.

As explained in Strickland,

Judicial scrutiny of counsel's performance must be highly deferential. It is all too tempting for a defendant to second-guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable. A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. Because of the difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance; that is, the defendant must overcome the presumption that, under the circumstances, the challenged action "might be considered sound trial strategy." There are countless ways to provide effective assistance in any given case. Even the best criminal defense attorneys would not defend a particular client in the same way.

466 U.S. at 689 (citations omitted). Therefore, counsel's strategic decisions will not be found to be deficient performance if he or she articulates a valid reason for employing the strategy. E.g., Stone v. State, 419 S.C. 370, 384, 798 S.E.2d 561, 569 (2017); Smith v. State, 386 S.C. 562, 567-68, 689 S.E.2d 629, 632-33 (2010); Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000); Stokes v. State, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992).

In its Order of Dismissal, this Court found probation revocation counsel was ineffective in three distinct ways: first, for failing to advise the court of the administrative hearing officer's recommendation of a one year partial revocations; second, for failing to advise the court that Applicant was not arrested for a felony charge while on probation; and third, for failing to supply the court with mitigating information regarding Applicant's two arrests for failure to appear.

Respondent respectfully asserts this Court's order is based on numerous legal and factual errors and that this Court's grant of post-conviction relief should be reconsidered and denied.

**Applicant failed to Establish Counsel was Constitutionally Ineffective for Failing to Advise the Court of the Administrative Hearing Officer's Recommendation of One Year Revocation**

In its order granting relief, this Court found, "Attorney Solar failed to advise the Court at Applicant's probation revocation hearing that the administrative Hearing Officer recommended a partial one year revocation and that Applicant thereafter continue on probation. At the July 26, 2016 hearing, Agent Holmes of South Carolina's Office of Probation, Parole and Pardon advised the Court that *the agent is recommending a revocation and terminate*. (July 26, 2018 transcript p. 3 l. 6-7). Neither Agent Holmes nor Attorney Solar advised the Court of the Hearing Officer's substantially more lenient recommendation." (Order Granting Relief p. 6) (emphasis in original).

Respondent respectfully asserts this Court's ruling is legally erroneous because it fails to consider the reasonable strategic decision made by counsel at Applicant's request. At the

evidentiary hearing, counsel Solar testified Applicant specifically asked her not to inform the court of the Administrative Hearing Officer's recommendation because he was hoping for a time served sentence rather than the one year of active incarceration as was recommended by the Administrative Hearing Officer. This Court's order erroneously fails to account for counsel's reasonable trial strategic decision in not informing the court of this recommendation—her strategy was to try to avoid any term of imprisonment for Applicant.

“A PCR court's analysis of counsel's strategic decisions must be ‘highly deferential to counsel's judgment, and “a fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight. [A] court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance.” Buckson v. State, Op. No. 27805 (S.C. Sup. Ct. filed May 23, 2018) (Shearouse Adv. Sh. No. 21 at 83) (citing Strickland) (internal citations and quotations omitted). By failing to consider counsel's reasonable trial strategy, this Court erred as a matter of law.

Moreover, Respondent respectfully asserts this Court's finding that counsel was constitutionally ineffective is also incongruent with the record before the Court. At the December 5, 2016, motion to reconsider hearing, counsel informed the court three times that the Administrative Hearing Officer only recommended one year revocation. This Court's order appears to erroneously ignore the transcript of the motion to reconsider hearing. See Suber v. State, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007) (“In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing.”). This Court's finding that counsel failed to inform the court of the Administrative Hearing Officer's recommendation is not supported by the full record before the Court. Additionally, Applicant

cannot establish any resulting prejudice, as the court was made aware of this multiple times at the subsequent motion to reconsider hearing and the result of the proceeding was the same.

**Applicant failed to Establish Counsel was Constitutionally Ineffective for Failing to Advise the Court that Applicant was not arrested on a Felony Charge while on Probation**

In its order granting relief, this Court found, “Attorney Solar was ineffective for failing to clarify to the Court that Applicant was not arrested for on a felony charge while he was on probation.” (Order Granting Relief p. 6). Respondent respectfully asserts this Court’s ruling is erroneous, as a clear reading of the unambiguous transcript from the July 26, 2016, establishes the court was aware Applicant was originally arrested for third-degree burglary on October 11, 2013—ten months before he was placed on probation. Because the court was correctly advised that the original arrest occurred well before Applicant was on probation, counsel cannot be deemed deficient for failing to advise the court of something it was already aware. Additionally, Applicant cannot establish prejudice, as there is no reasonable probability the outcome would have been different because the court was already aware the third-degree burglary arrest was based on conduct occurring before he was placed on probation.

Additionally, counsel highlighted to the court during the December 5, 2016, motion to reconsider hearing that Applicant was not arrested for any felonies while on probation, which again appears to be ignored by the Court in its order. Because counsel did remind the court that Applicant was not arrested for any felonies while on probation, her performance cannot be deemed deficient. Moreover, Applicant cannot establish any resulting prejudice, as the court was made aware of this at the subsequent motion to reconsider hearing and the result of the proceeding was the same.

**Applicant failed to Establish Counsel was Constitutionally Ineffective for Failing to Explain to the Court why Applicant had Failed to Appear**

In its order granting relief, this Court found, "Attorney Solar also failed to provide the Court with an explanation of why Applicant failed to appear in Court on the two occasions leading to his arrest on those charges. The Court is satisfied that Applicant's failure to appear was the result of either his incarceration on other charges or his hospital admissions related to his alcoholism." (Order Granting Relief p. 7). Respondent respectfully asserts this Court's ruling is erroneous as it is conclusively refuted by the record. During the July 26, 2016, probation revocation hearing, counsel informed the court that Applicant had stopped reporting (and presumably failed to update his address) because he was homeless and living in Tent City downtown. She also informed the court that Applicant had physical and mental health problems, as well as alcohol dependency, and had been in and out of treatment and the hospital. As the record conclusively refutes this allegation, Respondent respectfully submits this Court's ruling to the contrary is erroneous and not supported by any evidence of probative value.

CONCLUSION

Based on all the foregoing, Respondent respectfully requests this Court reconsider its prior ruling and deny its previous grant of post-conviction relief and remand of this case back to the court of general sessions for a new probation revocation hearing.

Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

By:   
Attorneys for Respondent  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3737

July 9, 2018.

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

2017-CP-10-0901

ALLEN STONE, #267003

Applicant,

vs

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,

Respondent.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Respondent's Motion to Reconsider, Alter, or Amend Pursuant to Rule 59(e), SCRCP the order denying post-conviction relief in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

James K. Falk, Esquire  
Falk Law Firm, LLC  
Post Office Box 1058  
Charleston, SC 29402

DATED this 9<sup>th</sup> day of July, 2018.

**RECEIVED**  
FEB 07 2019  
S.C. SUPREME COURT

  
MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General  
S.C. Bar No. 100108  
Office of Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-3737

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

ALLEN STONE, SCDC No. 267003,

**Applicant,**

**V.**

STATE OF SOUTH CAROLINA,

**Respondent.**

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
CASE NO. 2017-CP-10-0901

**ORDER DENYING RESPONDENT'S  
MOTION TO RECONSIDER, ALTER  
OR AMEND**

25  
2018 OCT 1 PM 12:03  
CLERK OF COURT  
CONDENT'S  
ER, ALTER,

THIS MATTER comes before the Court on Respondent's Motion to Alter or Amend Judgment pursuant to Rule 59(e), SCRCP.

Having considered all the facts and circumstances surrounding this case, the relevant law, the testimony elicited at the evidentiary hearing, and the brief of the Respondent pursuant to SCRCF 59(f), the Court is not persuaded to reconsider, alter, or amend its original Order granting post-conviction relief as to Mr. Allen Stone.

**AND IT IS SO ORDERED** this 28th day of September, 2018.

The Honorable Thomas A. Russo  
Presiding Judge, Ninth Judicial Circuit

## Florence, South Carolina