

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Honorable , Circuit Court Judge

DESMOND MAYO,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001756

APPENDIX

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S.C. SUPREME COURT

INDEX

INDEX i

PLEA HEARING TRANSCRIPT (APRIL 1, 2014).....1

APPLICATION FOR POST-CONVICTION RELIEF21

RETURN AND MOTION FOR MORE DEFINITE STATEMENT28

AMENDMENT TO APPLICATION FOR POST-CONVICTION RELIEF.....33

POST-CONVICTION RELIEF HEARING TRANSCRIPT.....36

ORDER OF DISMISSAL.....78

INDICTMENT90

SENTENCE SHEET.....92

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
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State of South Carolina
County of Richland

Court of General Sessions

State of South Carolina)
)
 vs.)
)
 Desmond Mayo,)
)
 Defendant.)

Transcript of Record
2011-GS-40-05683

State of South Carolina)
)
 vs.)
)
 Jarquis Davis,)
)
 Defendant.)

2011-GS-40-05684
2012-GS-40-05685

April 1, 2014
Columbia, South Carolina

B E F O R E:

The Honorable R. Ferrell Cothran, Jr., Judge

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

Hans W. Pauling, Assistant Solicitor
Attorney for the State

Nicole L. Singletary, Esquire
Attorney for Defendant Desmond Mayo

Stephen F. Krzyston, Esquire
Attorney for Defendant Jarquis Davis

Stacy S. Johnson, RPR
Circuit Court Reporter

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CERTIFICATE OF REPORTER

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E X H I B I T S

NO.

DESCRIPTION

ID.

EVD.

NO EXHIBITS WERE INTRODUCED

1 (The following proceedings were held on April 1,
2 2014.)

3 **MR. PAULING:** Your Honor, if it please the Court,
4 the State would call Desmond Mayo and Jarquis Davis.

5 **THE COURT:** Okay.

6 **MR. PAULING:** Thank you.

7 (Whereupon, Desmond Mayo and Jarquis Davis were
8 sworn by the Clerk of Court.)

9 **MR. PAULING:** Thank you, Your Honor. May it
10 please the Court. My name is Hans Pauling. I work for
11 the Richland County Solicitor's Office. And standing
12 before you is Desmond Mayo, he's represented by Nicole
13 Singletary from the private bar, and Jarquis Davis, he
14 is represented by Stephen Krzyston of the Richland
15 County Public Defender's office.

16 Desmond Mayo is here to plead guilty, Your Honor,
17 to 2011-GS-40-5683, attempted murder. Jarquis Davis
18 is pleading to 2011-GS-40-5684, attempted murder, and
19 2011-GS-40-5685, weapon in possession during the
20 commission of a violent crime. The State does have a
21 recommendation in the case, Your Honor, and the victim,
22 Rondon Brown, is present. He's in the first row of the
23 gallery, Your Honor, in the wheelchair at the far right.

24 **THE COURT:** Okay. Which one is Mr. Mayo?

25 **MS. SINGLETARY:** Mr. Mayo is my client, Your Honor.

1 **THE COURT:** Mr. Mayo, Mr. Davis, both of y'all want
2 to plead guilty?

3 **DEFENDANT MAYO:** Yes, sir.

4 **DEFENDANT DAVIS:** Yes, sir.

5 **THE COURT:** Did you have enough time to talk with
6 your lawyers about this?

7 **DEFENDANT MAYO:** Yes, sir.

8 **DEFENDANT DAVIS:** Yes, sir.

9 **THE COURT:** Are you satisfied with their
10 representation?

11 **DEFENDANT MAYO:** Yes, sir.

12 **DEFENDANT DAVIS:** Yes, sir.

13 **THE COURT:** You got any complaints?

14 **DEFENDANT MAYO:** No, sir.

15 **DEFENDANT DAVIS:** No, sir.

16 **THE COURT:** Has anybody promised you anything or
17 threatened you in any way to get you to plead guilty?

18 **DEFENDANT MAYO:** No, sir.

19 **DEFENDANT DAVIS:** No, sir.

20 **THE COURT:** Do you understand I can give you up to
21 thirty-five years on this? Each one of you understand
22 that?

23 **DEFENDANT MAYO:** Yes, sir.

24 **DEFENDANT DAVIS:** (Nods head.)

25 **THE COURT:** All right. And attempted murder is a

1 no parolable offense. It's a most serious and violent.
2 Do you understand that?

3 **DEFENDANT MAYO:** Yes, sir.

4 **DEFENDANT DAVIS:** Yes, sir.

5 **THE COURT:** If you get another most serious offense,
6 you're gonna be looking at life without the possibility
7 of parole. Do you understand that?

8 **DEFENDANT MAYO:** Yes, sir.

9 **DEFENDANT DAVIS:** Yes, sir.

10 **THE COURT:** Is either one of you under the influence
11 of alcohol or drugs today?

12 **DEFENDANT MAYO:** No, sir.

13 **DEFENDANT DAVIS:** No, sir.

14 **THE COURT:** Do you have any mental diseases that
15 would keep you from understanding what you're doing here
16 today?

17 **DEFENDANT MAYO:** No, sir.

18 **DEFENDANT DAVIS:** No, sir.

19 **THE COURT:** By pleading guilty, you're giving up
20 your constitutional right under the Fifth Amendment to
21 remain silent because you're telling me you're guilty.
22 Do you understand that?

23 **DEFENDANT MAYO:** Yes, sir.

24 **DEFENDANT DAVIS:** Yes, sir.

25 **THE COURT:** You're also giving up your right to a

1 jury trial, your right to confront witnesses, to
2 cross-examine witnesses and to subpoena witnesses to
3 testify on your behalf. Do you understand that?

4 **DEFENDANT MAYO:** Yes, sir.

5 **DEFENDANT DAVIS:** Yes, sir.

6 **THE COURT:** And you're giving up any defenses you
7 may have to this crime by pleading guilty. Do you
8 understand that?

9 **DEFENDANT MAYO:** Yes, sir.

10 **DEFENDANT DAVIS:** Yes, sir.

11 **THE COURT:** And if you went to trial, the State
12 would have to prove you guilty of these charges beyond
13 a reasonable doubt, all twelve jurors. Do you
14 understand that?

15 **DEFENDANT MAYO:** Yes, sir.

16 **DEFENDANT DAVIS:** Yes, sir.

17 **THE COURT:** You're giving up any appeals that you
18 might have, and if you want to appeal this guilty plea
19 today, you've got to file that with the Clerk of Court
20 with your original attorneys within ten days of today's
21 date or you give up that right. Do you understand that?

22 **DEFENDANT MAYO:** Yes, sir.

23 **DEFENDANT DAVIS:** Yes, sir.

24 **THE COURT:** The Solicitor is gonna tell me about
25 the facts and I'll come back and ask you about them,

1 okay?

2 **MR. PAULING:** Thank you very much, Your Honor. May
3 it please the Court. The incident date was May 5, 2011,
4 approximately 2:25 in the morning, at [REDACTED]
5 in Columbia. That's in Richland County, South Carolina.
6 The Defendants, Mayo and Davis, were driven to the
7 incident by the girlfriend of Desmond Mayo. Her name
8 is April Morning. Both April Morning and the victim,
9 Rondon Brown, along with Desmond Mayo, worked at Fort
10 Jackson in the soldiers' cafeteria. Earlier in the day,
11 April Morning and Mr. Brown had gotten into a verbal
12 altercation at work. April Morning then asked Defendant
13 Mayo to "handle" Victim Brown. Morning took Mayo to
14 pick up Mr. Jarquis Davis. Davis brought his gun. Both
15 Mayo and Davis confronted Brown once they arrived at the
16 incident location. According to the victim, Defendant
17 Mayo ordered Defendant Davis to shoot the victim.
18 Defendant Davis fired no less than four times striking
19 the victim, and according to the investigative report,
20 Defendant Davis said that his gun had jammed. Both
21 Defendant Mayo and Davis then fled the scene in the
22 vehicle that they arrived in driven by Morning. Mayo
23 was the front seat passenger and Davis was in the back
24 seat. According to April Morning, Davis admitted to
25 shooting Victim Brown and the Columbia Police Department

1 interviewed the victim at the hospital. The victim
2 stated that he could identify both subjects and that he
3 did so without hesitation.

4 The victim, Your Honor, Mr. Brown, has had
5 extensive medical injuries. He also suffers from
6 lifelong paralysis from the chest down. He is here in
7 attendance, but his mother would choose to address the
8 Court at the appropriate time.

9 **THE COURT:** Okay. Mr. Mayo and Mr. Davis, are
10 those facts correct?

11 **DEFENDANT MAYO:** Yes, sir.

12 **DEFENDANT DAVIS:** Yes, sir.

13 **THE COURT:** And y'all are pleading guilty to this
14 crime because you are guilty?

15 **DEFENDANT MAYO:** Yes, sir.

16 **DEFENDANT DAVIS:** Yes, sir.

17 **THE COURT:** And I find there's a factual basis for
18 your pleas and the pleas have been voluntarily entered
19 into, you've both had advice of competent counsel who
20 you tell me you're satisfied with, and I'll accept your
21 pleas.

22 Tell me a little bit about their records and I'll
23 be glad to hear from the victim.

24 **MR. PAULING:** Yes, sir, Your Honor. According to
25 my file, Mr. Mayo, Your Honor, has no prior record and

1 I believe there is a magistrate level offense for
2 trespassing that involves Mr. Davis.

3 **THE COURT:** Okay. I'll be glad to hear from the
4 victim and his mother as well.

5 **MR. PAULING:** Your Honor, the mother of the victim,
6 she would like to address the Court.

7 Ma'am, just give your full name to the Court.

8 **MS. BROWN:** Nakia Brown. I'm the mother of Rondon
9 Brown. And what I want to say is I don't have any
10 hatred towards the Mayo family, nor the Davis family,
11 but I really don't care who shot my son, both of them
12 was together, and my son is here in a wheelchair for the
13 rest of his life. This has affected me, Your Honor.
14 When it first happened, I had to take six months off to
15 care for him. My life has completely stopped because of
16 him. It's like my life is revolving around him. And
17 not only has it affected me, but it also has affected
18 his family. He has kids. His six-year-old daughter
19 loves him to death, but they can't enjoy each other like
20 they used to because he's in a wheelchair. Mayo has
21 kids. Whenever Mayo gets released, he can enjoy his
22 family. My son, he can't do that with his daughter.
23 And it hurts me so bad because Mayo and my son was
24 friends once upon a time and for him -- for them to do
25 my son like this, Your Honor, they didn't have to do my

1 son like that, and it really has affected me and my
2 family a whole lot. And it hurts me because my son is
3 twenty-three years old, he just had a birthday, but he
4 couldn't enjoy his birthday. So, again, I don't have
5 any hatred toward the Davis family, nor the Mayo family,
6 but I really don't care who did it to my son, both of
7 them was together, Your Honor, and both of them must pay
8 the price.

9 **THE COURT:** Thank you, ma'am. Anything else?

10 **MR. PAULING:** Your Honor, if you'd like, I can
11 present the State's recommendation at this time also.

12 **THE COURT:** Okay.

13 **MR. PAULING:** Your Honor, the State is recommending
14 a cap of sixteen years and that's for both Defendants.

15 **THE COURT:** Okay. All right. Who wants to go
16 first?

17 **MS. SINGLETARY:** Thank you, Your Honor. If it
18 pleases the Court. Your Honor, my client is Desmond
19 Mayo. He's twenty-four years of age. You heard from
20 the Solicitor as he related to the fact that prior to
21 this incident my client had no prior record at all,
22 Your Honor. And at the appropriate time my client would
23 like to address the Court.

24 Your Honor, as the victim's mother stated, my
25 client does have two kids. Your Honor, since my client

1 has been incarcerated since May the 5th of 2011 he has
2 had a chance to reflect on his actions that day. Your
3 Honor, we understand the facts as described by the
4 State, and not to minimize this incident because this
5 certainly was a tragic incident, but in our reviewing
6 of the discovery and in my talking with my client and
7 from a third-party witness, at the time the shots were
8 fired my client was actually at the vehicle, so his
9 co-defendant was actually at the residence, at the door
10 of the victim in this case.

11 We know that there's no allegations that my client
12 actually shot the victim, but we want to make it clear
13 in the form of mitigation that at the time that the
14 shots were heard, at the time that the shots were fired,
15 that my client was back in the vehicle. I say that to
16 say that my client strongly disagrees with the fact that
17 he ordered his co-defendant to actually shoot the victim
18 in this case; however, he is accepting responsibility
19 here today, Your Honor.

20 I would like to tell you that while my client has
21 been incarcerated for a little shy of thirty-four
22 months, he has been doing some very productive things
23 in jail, unlike some of my other clients who just sit
24 there and don't do anything at all. Your Honor, he has
25 graduated from the Work Keys Program, he's participated

1 in the Prison Fellowship and Vision Program, Your Honor,
2 and if I may approach, Your Honor, to show Your Honor
3 two certificates and a letter in reference to Mr. Mayo's
4 participation in a program at Alvin S. Glenn Detention
5 Center in which this program is for the -- for the
6 actual client to accept their responsibility in their
7 actions.

8 Your Honor, based on the fact that my client does
9 not have any previous record -- and one thing that I
10 will tell the Court is, I know my client has been
11 incarcerated since is May of 2011, this has always
12 been a plea, Your Honor. There have been some things
13 that have come up that have caused us to actually
14 reschedule this actual plea over and over again, but he
15 has always accepted responsibility and he has always
16 been remorseful for his actions.

17 Your Honor, in support of him today, if you would
18 please stand up, is his mother and other family members,
19 and at the appropriate time they would also like to
20 address the Court.

21 Your Honor, this is truly a tragedy. We're just
22 respectfully asking given the fact that my client has
23 no prior record, he's certainly put himself at the wrong
24 place and his actions caused someone else's life to be
25 changed forever, and when I spoke to my client yesterday

1 we discussed the fact that not only is one family
2 destroyed by his actions on that night, it's four
3 families that are destroyed and that he needs to
4 accept the fact that not only was the victim's family
5 destroyed, but he destroyed his relationship with his
6 kids, he destroyed his relationship with his family
7 members and his co-defendant's relationship with his
8 family members, by the reckless actions on that night.
9 Based on that, Your Honor, my client respectfully asks
10 for me to ask the Court to consider a range of seven to
11 ten years in the Department of Corrections, Your Honor.

12 And my client would like to -- he's prepared a
13 statement that he would like to read to the Court and
14 the victim.

15 **THE COURT:** Okay. Yes, sir.

16 **DEFENDANT MAYO:** Good morning, everybody. First
17 thing, first and foremost, on behalf of Rondon Brown, I
18 would like to apologize for this tragedy, which I never
19 intended for no one to get hurt or harmed in any way.
20 In addition, I would like to apologize to Rondon Brown's
21 mother and family as well. Also to my mother and
22 family, each and every one of our families, but mostly
23 as a result I'm fully aware of my repercussions -- of
24 the repercussions of my actions -- of my past actions
25 due to the fact of spending the entire thirty-four

1 months incarcerated in the Alvin S. Glenn Detention
2 Center. I spend each and every morning reflecting on
3 my daily deeds; however, due to this catastrophe
4 happening it made me a better man that -- it made me a
5 better man that wants to practice morals and humility.
6 As a man, I realize that I don't want to spend the rest
7 of my life in and out of the system. I've never been a
8 violent individual, nor do I have a violent history.
9 I'm no threat to my community. On the other hand, I
10 understand what you're saying, but I am not what this
11 crime is making me out to be, like a monster. So on
12 this very day, I would like to extend my deepest,
13 sincere apology to Rondon Brown and Rondon Brown's
14 family and my family as well. All I'm asking for is
15 another chance to be with my family and really want
16 forgiveness from y'all. I have come to understand that
17 my actions did not only hurt my family, but it hurt my
18 victim and my community as well. I know that I can't
19 undo the damage that's already been done, but I found
20 myself and learned I can change myself. That's when I
21 found God and he forgave me for all of my sins. Now I
22 know I should apologize in life and I know it's hard out
23 there and now I am willing to make right all the wrong
24 things I did in life. I'm just asking that y'all have
25 mercy upon me. I just want to be a better role model

1 for my family and children and if there is anything I
2 can do to help, I'm willing to do so. I'm just hoping
3 and praying that y'all can forgive me for all the damage
4 and harm that I've caused to each and every -- each and
5 every one of the families, and if you can't, then I
6 understand. God bless you. Sincerely, Desmond Mayo.

7 **MS. SINGLETARY:** Thank you, Your Honor. At the
8 appropriate time the family members would like to
9 address the Court.

10 **THE COURT:** Okay. I'll be glad to hear from them.

11 **MS. SINGLETARY:** State your full name.

12 **MS. JONES:** My name is Karen Jones and these are --
13 these are my two cousins. These are bright young men.
14 All -- out of what they've done, I know they're so
15 sorry. I know they've had a lot of time to sit and
16 meditate on that and it doesn't slight the fact of what
17 they did. We're sorry, so sorry, that it happened, but
18 there is no one in this room that hasn't done wrong and
19 there's no one in this room that doesn't need grace and
20 mercy in their time of need. Thank you.

21 **MS. SINGLETARY:** Anyone else like to say anything?
22 And, Your Honor, I will say that I met with Mr. Mayo's
23 mother yesterday and she just wanted me to convey to the
24 Court, and she is in attendance today, that she would
25 like to send her thoughts and her prayers out to the

1 victim and the victim's family. She's somewhat nervous
2 to speak in front of crowds, but she just asks for their
3 forgiveness and asks that they understand that -- she
4 understands what they are going through.

5 **THE COURT:** Thank you, ma'am. Yes, sir.

6 **MR. KRZYSTON:** Thank you, Judge. May it please the
7 Court. Judge, I'm not here to try the facts today or
8 say anything about who was where at what time, but we
9 are here to take responsibility for Jarquis's actions.

10 Just to give you a little history about Jarquis,
11 he went through the ninth grade at Richland Northeast
12 High School here in Columbia and ended up dropping out.
13 You know, I think this situation here quite honestly
14 reflects the failure by -- you know, not only Mr. --
15 Mr. Davis's family, but also the public school system
16 in kind of teaching people to address basic conflict.
17 Here we've got two young men, no serious prior criminal
18 history between either of them, getting involved in
19 behavior that is way over the top. Again, this all
20 stems from a simple argument and a lack of basic
21 conflict skills -- basic conflict resolution skills.

22 Like Mr. Mayo, Mr. Davis has spent his time wisely
23 in jail. He finished his GED up there, he's been
24 attending the Turning Leaf Program, he has undergone
25 anger management classes and looked into joining the

1 AA program. He's also attended Going for the Gold
2 classes and some male empowerment classes. He's been
3 up there three years, so he's had an opportunity to go
4 ahead and make something of the programs that the Alvin
5 S. Glenn Detention Center offers.

6 When -- back in 2000, Mr. Davis's mother passed.
7 While he has been incarcerated, he's lost the rest of
8 his parental support. His father passed in 2014, this
9 year here, and his grandfather passed in 2012. So
10 while Mr. Davis has been incarcerated for that time,
11 he's lost the bulk of his parental support. His sister
12 who raised him is here today, in addition to the members
13 of Mr. Mayo's family. I believe they're all here to
14 support both of the boys. You know, Judge, I think
15 these are two bright young men who made a terrible
16 decision, who lacked basic conflict resolution skills
17 and engaged in a course of conduct which society and I
18 think everybody here agrees is unreasonable.

19 Judge, I know Mr. Davis wants to address you in a
20 moment, but before he does we're gonna ask -- again,
21 we're in line with the range that Ms. Brown's {sic}
22 asking for. If it has to be something on the higher end
23 of the range, Judge, we'd ask you to consider perhaps
24 ten years suspended on the service of five years and
25 five years probation, give him some supervision on the

1 back side of it, and perhaps allow him to get into some
2 anger management classes as well.

3 Judge, with that, I believe that Mr. Davis -- I
4 don't believe -- I think the statement that was made on
5 Mr. Mayo's behalf I think goes equal to both boys, so I
6 think we can hold off on that, but with that I'll leave
7 it to Mr. Davis.

8 **THE COURT:** Okay. Yes, sir.

9 **MR. DAVIS:** First and foremost, I would like to say
10 I'm sorry for what I've done. I accept what I did and
11 I know it was wrong, but I'm not the same man that came
12 here three years ago, I'm a changed man, and I just wish
13 I could put this behind me. I'm truly sorry for what I
14 have done.

15 **MR. KRZYSTON:** And, Judge, just for the record,
16 Mr. Davis does have one thousand and thirty days credit
17 at the Richland County Detention Center.

18 **MS. SINGLETARY:** And, Your Honor, my client has the
19 same amount of time.

20 **THE COURT:** Okay. Mr. Davis, the sentence for
21 the attempted murder is you're committed to the State
22 Department of Corrections for a term of fourteen years.
23 I'm giving you credit for a thousand and thirty days.
24 On the possession of a weapon, it's five years to run
25 concurrent, credit for time served.

1 Mr. Mayo, the sentence of the Court is you're
2 committed to the State Department of Corrections for a
3 terms of twelve years. I'm giving you credit for the
4 time you've served on that as well.

5 Good luck, y'all. I hope when you get out you can
6 handle your life.

7 **MS. SINGLETARY:** Thank you, Your Honor.

8 **MR. KRZYSTON:** Thank you, Judge.

9 **MR. PAULING:** Thank you, Your Honor.

10 (Proceedings were concluded at 10:09 A.M.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter for the Eighth 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 the evidence introduced in the hearing of the captioned case in Circuit Court on the 1st day of April, 2014.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

April 21, 2015

s/ Stacy S. Johnson
Stacy S. Johnson, RPR
Circuit Court Reporter

FORM 5

2015 CP400 1165

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 DESMOND H. MAYO #359416)
 Full name and prison number (if any) of Applicant.)
)
 v.)
)
 State of South Carolina)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Walden Correctional Institution, 4340 Broad River Road, Columbia, SC 29210
2. Name and location of Court which imposed sentence Richland County Court of General Sessions, 1701 Main Street, Columbia, SC 29201
3. Name(s) of co-defendant(s) (if any) Jarquis Davis #359426
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2011-GS-40-5683 - Attempted Murder
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:

JAMETTE S. SCBRIDGERS
 C.C.P.
 2015 FEB 24 PM 2:44
 RICHLAND COUNTY
 FILED

- (a) April 1, 2014 - 12 years
 - (b) _____
 - (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty x
 - (b) after a plea of not guilty
 - (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
no
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. _____
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. _____
 - iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
 - (b) _____
 - (c) _____

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

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

(d) the date of each such disposition:

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

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

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

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

no

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

(a) which grounds have been presented:

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

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

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

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

- (a) _____
- (b) _____

- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? x
 - (b) your trial, if any?
 - (c) your sentencing? X
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. Nicole L. Singletary, 4511 North Main Street, Columbia, SC 29203
 - ii. _____
 - iii. _____
 - (b) the proceedings at which each such attorney represented you:
 - i. Guilty plea and sentencing
 - ii. _____
 - iii. _____
19. State clearly the relief you seek in filing this application:
New Trial
20. Are you now under sentence from any other court that you have not challenged?
No

STATE OF SOUTH CAROLINA)
)
County of Richland)

VERIFICATION

I, Desmond H. Mayo, 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.

X Desmond Mayo

SWORN to and subscribed before me this 17th
day of February, 2015.

Yolanda Long (L.S.)
Notary Public

My Commission Expires: 1/20/2022

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

I, Desmond H. Mayo, 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.

X Desmond Mayo

 Applicant

SWORN or affirmed to and subscribed before me this

17th day of February, 2015.

Yolanda Long

 Notary Public

My Commission Expires: 1/20/2022

RICHLAND COUNTY
 FILED
 2015 FEB 24 PM 2:44
 JEANETTE W. MCBRIDE
 C.C.P. & G.S.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Desmond H. Mayo, #359416,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

2015-CP-40-01165

**RETURN AND MOTION FOR MORE
DEFINITE STATEMENT**

In response to the post-conviction relief application filed February 24, 2015, the Respondent would show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted at the December 2011 term of the Richland County Grand Jury for one count of Attempted Murder (2011-GS-40-5683). Applicant was represented by Nicole L. Singletary, Esq. On April 1, 2014, Applicant pleaded guilty as indicted. The Honorable R. Ferrell Cothran, Jr., sentenced applicant to twelve (12) years' imprisonment. Applicant did not appeal his plea or sentence.

II.

In his current application for Post-Conviction Relief, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
2. Involuntary Guilty Plea

III.

Respondent now moves Applicant for a more definite statement pursuant to Rule 12(e) of the South Carolina Rules of Civil Procedure. "If a pleading to which a responsive pleading is

permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, he may move for a more definite statement before interposing his responsive pleading.” SCRCP 12(e).

In his Application, Applicant alleges ineffective assistance of counsel and involuntary guilty plea. Applicant has failed to set forth any “facts which support each ground” or to explain with any specificity whatsoever, the actual scenarios/facts upon which these supposed 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).

Before the Court will hold an evidentiary hearing, Applicant must make a *prima facie* showing that he is entitled to relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). This allegation is so vague that it is impossible for the State to adequately respond. Respondent requests that the application be amended to provide Respondent with a basis to prepare a return.

IV.

Respondent construes Applicant’s claims as allegations of ineffective assistance of plea counsel and submits Applicant’s allegation of ineffective assistance of plea counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of plea counsel as a ground for relief, the applicant must prove “counsel’s conduct so undermined the proper functioning of the adversarial process” that the plea

proceedings "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes plea counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. Id. at 117, 386 S.E.2d at 625. First, the Applicant must prove plea counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, plea counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of plea 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)

V.

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

VI.

WHEREFORE, Respondent moves for a more definite statement.

Respectfully submitted,

ALAN M. WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

By:



Attorneys for the Respondents

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

June 25th, 2015

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
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 DESMOND H. MAYO, #359416)
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 Applicant,)
)
)
 vs)
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)
 STATE OF SOUTH CAROLINA,)
)
)
)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS

2015-CP-40-01165

AFFIDAVIT OF SERVICE BY MAIL

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

Tommy Arthur Thomas, Esquire
7588 Woodrow St
Irmo, SC 29063

DATED this 25th day of June, 2015.



 Sara B. Moore, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2015-CP-40-1165

DESMOND H. MAYO #359416)
)
Applicant,)
v.)
STATE OF SOUTH CAROLINA,)
)
Respondent,)
_____)

AMENDMENT TO APPLICATION
FOR POST CONVICTION RELIEF

Pursuant to the Respondent’s Return and Motion for More Definite Statement, the Applicant by and through his attorney, Tommy A. Thomas would respectfully amend and supplement his original application for Post-Conviction Relief filed February 24, 2015, by adding the following:

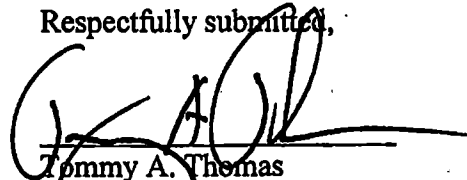
1. That the Applicant specifically re-alleges his claim of ineffective assistance of counsel.
2. That trial Counsel was ineffective for the following additional reasons:
 - a. That the Applicant is informed and believes that he had the defense of mere presence and that he never discussed this issue with defense counsel.
3. That the Applicant is informed and believes that his guilty plea was not freely, voluntarily, intelligently and knowingly given for the following reasons.
 - a. The Applicant was detained in the Richland County Detention Center for a period of 34 months prior to his plea. That as a result of

the length of incarceration in the Detention Center he believes he was forced, or coerced in accepting the plea.

b. That the Applicant had a viable defense of mere presence. That there was evidence that he was in a vehicle when the alleged shooting took place.

c. That he had no knowledge that the co-defendant had possession of a weapon, nor did he have any knowledge that the co-defendant intended to shoot the victim.

Respectfully submitted,



Tommy A. Thomas
Attorney for the Applicant
Post Office Box 88
Irmo, South Carolina 29063
(803) 732-5507

November 3, 2015
Irmo, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2015-CP-40-1165

DESMOND H. MAYO #359416)

)
Applicant,)

v.)

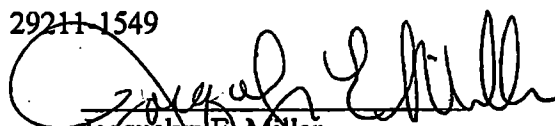
STATE OF SOUTH CAROLINA,)

)
Respondent,)
_____)

CERTIFICATE OF SERVICE
BY MAIL

I, Jacquelyn E. Miller, secretary to Tommy A. Thomas, Attorney for the Applicant hereby certify that I placed in the United States Mail, a copy of an Amendment to Application for Post Conviction Relief, with postage prepaid and the return address clearly shown on said envelope to J. Clayton Mitchell, Esq. of the Attorney General's Office, at:

J. Clayton Mitchell, Esq.
Attorney General's Office
P.O. Box 11549
Columbia, SC 29211-1549



Jacquelyn E. Miller
Secretary to Tommy A. Thomas
Attorney for Applicant
P.O. Box 88
Irmo, SC 29063
(803) 732-5507

Irmo, SC
November 4, 2015

State of South Carolina)
County of Richland)

In the Court of Common Pleas
Fifth Judicial Circuit
2015-CP-40-1165

Desmond H. Mayo,)
Applicant,)
vs.)
State of South Carolina,)
Respondent.)
_____)

Transcript of Record

December 5, 2016
Columbia, South Carolina

B E F O R E:

The Honorable Jean H. Toal, Judge

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

Tommy A. Thomas, Esquire
Attorney for the Applicant

Jessica E. Kinard, Esquire, Assistant Attorney General
Attorney for the Respondent

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

I N D E X

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<u>Witness/Description</u>	<u>Page No.</u>
Desmond Mayo	
Direct Examination by Mr. Thomas	4
Cross-examination by Ms. Kinard.	16
Redirect Examination by Mr. Thomas	20
Examination by The Court	21
 Nicole Singletary	
Direct Examination by Ms. Kinard	28
Cross-examination by Mr. Thomas.	36
 Ruling of The Court	39
Certificate Page.	42

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Page No.</u>
	No exhibits introduced.	

1 MS. KINARD: May it please the court? This is the
2 matter of *Desmond H. Mayo vs. The State of South Carolina*.
3 We're before the court on an application for
4 post-conviction relief that was filed February 24, 2015.
5 The applicant is presently confined in the South Carolina
6 Department of Corrections pursuant to orders of commitment
7 of the Richland County Clerk of Court. He was indicated at
8 the December 2011 term of the Richland County Grand Jury
9 for one count of attempted murder. He was represented by
10 Nicole Singletary. On April 1, 2014, Mr. Mayo pled guilty
11 as indicated. The Honorable Ferrell Cothran sentenced him
12 to twelve years of imprisonment. He did not appeal his
13 plea or sentence.

14 In his original application, he alleged ineffective
15 assistance of counsel and involuntary guilty plea. The
16 state filed a return and motion for more definite statement
17 on or about June 25, 2015. In response, Mr. Thomas on
18 behalf of Mr. Mayo filed an amended application on or about
19 November 3, 2015. The state is present and ready to
20 proceed. Mr. Mayo is present, represented by Mr. Thomas.

21 THE COURT: Good morning, Mr. Thomas.

22 MR. THOMAS: Good morning.

23 THE COURT: Good to see you.

24 MR. THOMAS: Yes, ma'am, good to see you.

25 THE COURT: Good morning to you, Mr. Mayo.

D. MAYO - DIRECT EXAMINATION BY MR. THOMAS

4

1 APPLICANT: Good morning.

2 MR. THOMAS: Your Honor, if it please the court, we'd
3 call Mr. Desmond Mayo to the stand.

4 THE COURT: Very good. Come around.

5 Well, will he take the stand? Officers, you tell me.
6 Do you bring Mr. Mayo to the stand?

7 DEPUTY: Yes, I will.

8 THE COURT: Very good. If you would come around, Mr.
9 Mayo, the clerk or the -- I guess I have a clerk here.

10 CLERK OF COURT: You do.

11 THE COURT: Good. The clerk will administer the oath,
12 and then you may be seated.

13 DESMOND MAYO, BEING DULY SWORN,
14 TESTIFIES AS FOLLOWS:

15 MR. THOMAS: Your Honor, if it please the court?

16 THE COURT: Yes, sir.

17 DIRECT EXAMINATION BY MR. THOMAS:

18 Q. Mr. Mayo, you are currently here for post-conviction
19 relief. Is that correct?

20 A. Correct.

21 Q. All right, sir, and let me ask you a few questions.
22 You're serving time for what?

23 A. Attempted murder.

24 Q. All right, sir, and this was a guilty plea?

25 A. Correct.

1 Q. And this was back in April of '14?

2 A. Correct.

3 Q. Yes, sir. Now, how much time did you receive?

4 A. Twelve years.

5 Q. Are you 65 or 85 percent?

6 A. 85.

7 Q. All right, sir, and how much time have you served?

8 A. Six years.

9 Q. And you are -- your max out is when?

10 A. 2021.

11 Q. All right, sir. Now, Mr. Mayo, you and I have spoken
12 about this, and you understand with a post-conviction
13 relief action, you're asking for a new trial?

14 A. Correct.

15 Q. All right, you understand that?

16 A. Correct.

17 Q. Do you understand that you have certain exposure with
18 that in that the state could, in fact, if you win bring
19 this back and they could retry your case?

20 A. Correct.

21 Q. And that you could get more time than you have today?

22 A. Correct.

23 Q. All right. Knowing that, do you still wish to proceed
24 today?

25 A. Correct.

D. MAYO - DIRECT EXAMINATION BY MR. THOMAS

6

1 Q. All right, sir. Mr. Mayo, just for the -- could you
2 just tell me a little bit about what happened? Why were
3 you charged with the attempted murder?

4 A. Well, the alleged victim claimed that I shot him
5 several times with a 9 mm pistol, which was not true. I
6 did not have a gun. I was unarmed at the time and when the
7 shooting took place, I was back at the car when the
8 shooting took place.

9 Q. All right, you had a co-defendant?

10 A. Correct.

11 Q. And who was the co-defendant?

12 A. My cousin.

13 Q. Your cousin. Did you know the victim of this crime?

14 A. Yes, I did.

15 Q. And you and he were casual friends?

16 A. Yes.

17 Q. All right, sir, and so that's what happened. There
18 were allegations that you had shot this gentleman?

19 A. Right.

20 Q. All right. Okay. Now, you were arrested and what
21 were you charged with?

22 A. Attempted murder.

23 Q. All right, sir, and did you retain or did you have an
24 appointed attorney? Did you hire a lawyer?

25 A. No, I didn't hire a lawyer.

D. MAYO - DIRECT EXAMINATION BY MR. THOMAS

7

1 Q. Okay, and you went through a couple of different
2 lawyers, didn't you, before you received your last
3 attorney?

4 A. That's true.

5 Q. And why was that?

6 A. I have no idea.

7 Q. Okay. Was there a conflict with the post -- I mean,
8 with the public defender's office? Do you remember?

9 A. I think that's what they were ---

10 Q. Okay.

11 A. --- trying to say, something like that.

12 Q. Well, who, who represented you?

13 A. First I had Luke Shealey. Then I had Tanika Claxton
14 and Nicole Singletary.

15 Q. All right. Now, you were arrested and you were in the
16 detention center?

17 A. Correct.

18 Q. How long were you in the detention center before this
19 case was disposed of?

20 A. From two thousand -- from May 5th, from May 5, 2011,
21 all the way up until April the 14th -- April the 1st, 2014.

22 Q. '12, '13, '14. About three years, three years?

23 A. Correct.

24 Q. Okay, and during that period of time, how many times
25 did you meet with your attorney?

D. MAYO - DIRECT EXAMINATION BY MR. THOMAS

8

1 A. I can't really count. It, it, it wasn't many.

2 Q. All right. Now, you had, you said, three different
3 attorneys. Can -- do you remember when your last attorney,
4 the one that represented you at the plea, when she kind of
5 came on the scene?

6 A. Yeah.

7 Q. All right. How much time did you have -- how much
8 time was in there before she started representing you and
9 you did the plea?

10 A. Around, like, two and a half years.

11 Q. Okay. So, so, it's fairly early in the process then?

12 A. Right.

13 Q. All right. Now, do you know what discovery is, your
14 discovery?

15 A. Motion?

16 Q. Motion for discovery.

17 A. Correct.

18 Q. All right, sir, and did you receive copy of discovery
19 in this case?

20 A. Yes, I did, but it was late. It was -- like, it took
21 almost a year for me to get that.

22 Q. Okay. Did you ever have an opportunity to sit down
23 with your lawyer and go over that discovery?

24 A. No, I did not.

25 Q. Did you understand what was in that discovery?

1 A. Somewhat.

2 Q. Okay. Now prior record, what kind of prior record, if
3 any, did ---

4 A. None.

5 Q. --- you have? Okay. So, this was your first time
6 that you'd been in general sessions court?

7 A. Yes, sir.

8 Q. All right. Now, when you talked with your attorney,
9 did she tell you about how you were going to be -- how she
10 was going to defend you and what your possible defenses
11 were?

12 A. No, not necessarily.

13 Q. Okay. Did you -- we talked about, you and I discussed
14 it, about a theory of defense. Did she have a theory of
15 defense?

16 A. Not that I know of.

17 Q. Okay. All right, and you talked. Did you sit down
18 and talk with her about the trial?

19 A. No.

20 Q. Okay.

21 A. It was just more, like, how much time am I going to
22 get because I was just -- at the moment I was just
23 stressing about time and my, my biggest issue was how much
24 time am I'm going to get, and by me not having a record or
25 any priors, my main concern was, like, how much time I was

D. MAYO - DIRECT EXAMINATION BY MR. THOMAS

10

1 going to get. I did not discuss anything other than time.

2 Q. All right, but you were, you were -- it was your
3 position all along in this case that you are not guilty of
4 this crime?

5 A. Right.

6 Q. Okay. Now, your -- how much was your bond?

7 A. 300,000.

8 Q. Did you ever make bond?

9 A. No, I did not.

10 Q. You were in the county jail the whole time?

11 A. Correct.

12 Q. Now, you had a girlfriend at the time?

13 A. I did.

14 Q. And what was her name?

15 A. April Mourner [*phonetic*].

16 Q. And was she involved in this situation?

17 A. Very much so.

18 Q. How was she involved?

19 A. She playing both ends of the field, of, of the field,
20 you know. I guess she was the one that -- threw the, threw
21 the stones but hid her hands. I mean, you know, and it
22 took me a long time to figure that out, you know, because
23 she was actually on the phone with him when the shooting
24 took place. And I guess to me that was, like, kind of like
25 a set up. So, you know.

- 1 Q. She was, she was talking to both you and he?
- 2 A. Correct.
- 3 Q. And what kind of things was, was she saying between
- 4 you and he?
- 5 A. I have no idea.
- 6 Q. Okay.
- 7 A. I have no idea.
- 8 Q. But she was making him angry and making you angry?
- 9 A. I guess she was just, like, trying to make me and him
- 10 clash, go head to head, argue.
- 11 Q. She was stirring the pot?
- 12 A. Pretty much.
- 13 Q. Okay. All right, and now you said that when this
- 14 shooting occurred, she was on the phone with him?
- 15 A. Correct.
- 16 Q. And where was she?
- 17 A. Back in the car.
- 18 Q. Where were you?
- 19 A. Back by the car, on my way to the car.
- 20 Q. All right, and where was he shot? I mean, what
- 21 location in the home was he shot or the house?
- 22 A. On the outside.
- 23 Q. Okay.
- 24 A. The home.
- 25 Q. All right, but you weren't, you weren't in the exact

D. MAYO - DIRECT EXAMINATION BY MR. THOMAS

12

1 or close proximity to ---

2 A. No, no.

3 Q. --- where he was?

4 A. Not at all.

5 Q. Okay. All right. Now, the -- did you have a gun?

6 A. No. I was unarmed.

7 Q. All right, and when you went over there, what was your
8 intent when you went -- I, I -- let me ask you this. Did
9 you, did you go over there?

10 A. Yes, I did, but my intentions was not to bring any
11 harm towards this individual. It was just to casually
12 communicate and in the process of communicating with this
13 individual, it led, it led to some kind of misunderstanding
14 and that misunderstanding led to a chaotic event.

15 Q. All right.

16 A. So.

17 Q. And, and during this misunderstanding -- I just want
18 to make sure we got this clear. During this
19 misunderstanding, did you walk away?

20 A. Correct.

21 Q. Okay, and who did you ride over there, if anybody?

22 A. With her.

23 Q. With the girlfriend?

24 A. Yeah. Correct.

25 Q. And who was driving?

1 A. She was.

2 Q. So, she took you over there?

3 A. Correct.

4 Q. All right. Where was your cousin?

5 A. Excuse me?

6 Q. Where was the cousin? How did he get there?

7 A. He was, he was there with us.

8 Q. He went with you?

9 A. Yeah.

10 Q. Okay. Did you have any idea that your cousin was
11 going to shoot this guy?

12 A. No, not at all. I didn't even knew he had a gun.

13 Q. Okay, and you were unarmed?

14 A. Correct.

15 Q. Now, you don't have any mental health issues, do you?

16 A. No, sir.

17 Q. Okay. Now, you said -- you and I talked and you had
18 told me that there were conflicting statements or
19 conflicting facts in this case. What were they?

20 A. I skimmed through my motion on my own free will and
21 accord.

22 Q. Yeah.

23 A. And I come to realize that his statement was kind of
24 contradicting because he said that I shot him with the
25 pistol, and then approximately, like, thirty days later he

D. MAYO - DIRECT EXAMINATION BY MR. THOMAS

14

1 changed his statement and say I told someone to shoot him.
2 So, I'm, like, which one is it, you know? Neither one is
3 true, so.

4 Q. Did you, did you talk to your, your attorney about
5 that?

6 A. Yes, I did.

7 Q. Okay, and did you bring it to their attention, this
8 discrepancy?

9 A. Somewhat, yes, I did.

10 Q. What did they tell you about using this information?

11 A. I guess by me entering a plea, a guilty plea bargain
12 that really didn't matter because I just wanted to get it
13 over with. And I, I was just, like, I didn't really want
14 to really push for a trial because to me, in my mind, I
15 was, like, I just felt like he's hurt. His family is going
16 to come represent him and make me look like the bad guy,
17 some kind of monster, you know, even though I apologized
18 for the injuries that he had to suffer from this event and,
19 like, it was just so much going on in my mind, like, I
20 just, I felt like I wasn't fully functional at that time.

21 Q. Now, were those feelings kind of because he was a
22 friend?

23 A. Correct.

24 Q. Okay. Now, you still understand that you're asking
25 for a trial today ---

1 A. Correct.

2 Q. --- if you're granted this post-conviction?

3 A. Correct.

4 Q. Okay. Now, you and I talked. I know you're not a
5 lawyer. You and I talked about this and about, you know,
6 what, what you're asking the court today. You understand
7 that your plea has to be freely and voluntarily given?

8 A. Right.

9 Q. And we talked about those terms?

10 A. Right.

11 Q. Do you feel like your plea was freely and voluntarily
12 given?

13 A. No.

14 Q. A plea also has to be knowingly and intelligently
15 given, and we talked about that. Do you believe that your
16 plea was knowingly and intelligently given?

17 A. No.

18 Q. Okay. Now, there was one other thing I want to ask
19 you about. In the plea negotiations, did your attorney
20 ever indicate to you or tell you what you were going to get
21 if you entered into this plea?

22 A. Before that was discussed, I recall her telling me
23 that I could get five years, and I was so excited because I
24 was, like, I did so much time. Where do I sign at? Where
25 is this in black and white? And it was never presented so,

1 I mean, I just ---

2 Q. Did that turn out to be true?

3 A. No, it didn't.

4 Q. Okay. All right. Now, Desmond, I'll ask you this
5 question. I ask all my clients, and it's not because I
6 believe that I have forgotten something or left something
7 out, but I know you've been waiting a long time to appear
8 in front of the court. Is there anything else that I may
9 have forgotten to ask you, or any issue that you feel like
10 is important that you should bring to the attention of the
11 court?

12 A. Not at all.

13 Q. Okay.

14 MR. THOMAS: Your Honor, thank you so much.

15 THE COURT: Thank you, Mr. Thomas.

16 Counsel.

17 MS. KINARD: Thank you, Your Honor.

18 CROSS-EXAMINATION BY MS. KINARD:

19 Q. Good morning, Mr. Mayo.

20 A. Good morning.

21 Q. Now just to go back a little bit, how many times do
22 you think you met with your attorney, and for purposes of
23 this hearing, we're going to refer to just Ms. Singletary.

24 A. Like, four or five times.

25 Q. Did you feel like you had good conversations in those

1 meetings?

2 A. Yeah, we had some conversations.

3 Q. Did you review the discovery with her, your motion?

4 A. Somewhat.

5 Q. Did you go over your version of events with her?

6 A. I do not recall that.

7 Q. You don't recall if you talked to her about what
8 happened that night?

9 A. Oh, with this case?

10 Q. Yes.

11 A. Oh, yeah, yeah, yeah, yeah, yeah.

12 Q. And you felt like she understood your position?

13 A. Yes.

14 Q. Did you talk to her about any defenses you may have
15 had? For example, if you had an alibi or any other reasons
16 you might not be guilty?

17 A. Very little.

18 Q. Did you give her the names of any witnesses that might
19 be helpful to you?

20 A. No, I didn't.

21 Q. Did she ever communicate any plea offers to you? You
22 talked about five years. Were there any other discussions?

23 A. No.

24 Q. Was there a discussion about how you would be
25 sentenced if you did plead guilty?

D. MAYO - CROSS-EXAMINATION BY MS. KINARD

18

1 A. Yes.

2 Q. And what was that?

3 A. She told me about appealing, the process of appealing
4 the -- she, she went over the plea with me that was on the
5 table at the time, and that's about it.

6 Q. And what was the plea that was on the table at the
7 time?

8 A. Zero to seventeen.

9 Q. Was that a recommended sentence? Do you recall?

10 A. Yeah. I guess it was recommended by the state, and
11 then it was dropped from zero to seventeen to zero to
12 sixteen.

13 Q. So, when you went into the -- went in court that day
14 to give your plea to the judge, you knew you faced up to
15 sixteen years?

16 A. Correct.

17 Q. And you went forward with that anyway?

18 A. Yes.

19 Q. Was it your decision to plead?

20 A. It was but I just felt like more -- I felt more like I
21 was forced to take that because I was -- I asked her
22 briefly if I don't agree to take this, then what is the
23 next step. She simply told me that I would go to trial,
24 and the thing that was in the back of my mind, something
25 was saying, like, I was -- something kept saying to me,

1 like, how can someone take you to trial if you don't even
2 ask for it? Like, that's, that was what -- that's what was
3 going on in my mind. So, I felt like I didn't have no
4 other choice. Like, I just need to go ahead and just face
5 it and whatever happens happens. But I really didn't want
6 to take that, you know?

7 Q. Is it fair to say that you chose to plead rather than
8 chose to go to trial?

9 A. Yes.

10 Q. And as part of that plea, do you recall answering some
11 questions with the judge?

12 A. Yes.

13 Q. Do you recall giving up some of your constitutional
14 rights?

15 A. Correct.

16 Q. And those included the right to remain silent?

17 A. Right.

18 Q. The right to face a jury? The right to confront your
19 accusers? Would you please answer verbally for the court
20 reporter?

21 A. Right.

22 Q. Thank you, and you agreed with the facts that the
23 solicitor presented as far as what happened that night?

24 A. Yeah, somewhat to a certain extent because, like, I
25 was just ready, so ready to get it over with. I mean, you

D. MAYO - CROSS-EXAMINATION / REDIRECT EXAMINATION 20

1 know, I was just nervous, real nervous. Shocked when I
2 received my time. I couldn't believe it but, you know.

3 Q. When the judge asked you, did you agree that you were
4 not threatened or coerced or promised anything in exchange
5 for your plea? Do you recall that?

6 A. Yes, I recall that.

7 Q. Okay, and do you recall that you testified you were
8 satisfied with the services of your attorney?

9 A. Yes, I recall that.

10 MS. KINARD: I have no further questions. Thank you.

11 MR. THOMAS: Your Honor, please the court?

12 THE COURT: Mr. Thomas.

13 MR. THOMAS: Just, just a couple on redirect.

14 REDIRECT EXAMINATION BY MR. THOMAS:

15 Q. Desmond, in answering the, the attorney general's
16 question, you were talking about what was the next step
17 about plea and trial.

18 A. Right.

19 Q. And you had been incarcerated -- well, you had been
20 detained in the detention center for how long?

21 A. Two years.

22 Q. All right. Did that have any play in you making this
23 decision to plead?

24 A. Of course.

25 Q. Why?

1 A. Very, very because, I mean, just the whole -- it --
2 the whole county jail experience was just so excruciating
3 emotionally. It's just, it was just unbearable. I
4 couldn't really take it anymore. Like, I just wanted to
5 get it over with. Like, I, I got tired of doing time, you
6 know? So much was happening. I lost loved ones, family
7 members. A lot was just going on, and I just couldn't take
8 it. I was ready to get it over with.

9 Q. Is it fair to say that you would have done anything to
10 get out of the detention center?

11 A. Yes.

12 Q. Now, counsel also asked you about, you know, the facts
13 that were presented in court when you did the plea. Now
14 it's your contention, though, that the facts are that, that
15 you walked away from this situation?

16 A. Correct.

17 Q. Okay.

18 MR. THOMAS: Your Honor, I have nothing further.

19 EXAMINATION BY THE COURT:

20 Q. I have a few questions, Mr. Mayo.

21 A. Yes, ma'am.

22 Q. I'm looking at the transcript of the guilty plea.

23 A. Yes, ma'am.

24 Q. And of course the victim claimed that you ordered
25 Davis to shoot the victim. That was your co-defendant?

1 A. Correct.

2 Q. But I noticed that -- and of course Davis admitted
3 shooting ---

4 A. Correct.

5 Q. --- Brown, did he not?

6 A. Correct.

7 Q. I noticed that when it was your turn to have your
8 lawyer speak for you, Ms. Singletary on page 11 of the
9 transcript says this:

10 In my talking with my client, from a third-party
11 witness at the time the shots were fired, my
12 client was actually at the vehicle. His
13 co-defendant was actually at the residence, at
14 the door of the victim. We know that there is no
15 allegation that my client actually shot the
16 victim, but we want to make it clear in the form
17 of mitigation that at the time the shots were
18 heard and the time the shots were fired, my
19 client ---

20 You.

21 --- were back at the vehicle. I say that to say
22 my client strongly disagrees with the fact that
23 he ordered his co-defendant to actually shoot the
24 victim in this case. However, he is accepting
25 responsibility here today.

1 So, she on your behalf made it clear to the judge that
2 you did not order your co-defendant to perform the
3 shooting, did she not?

4 A. She did.

5 Q. And she nevertheless concluded by saying you accepted
6 responsibility, and you've explained because you wanted
7 this whole thing to get over and get behind you, right?

8 A. Right. Correct. Correct.

9 Q. She also made it clear that even though you'd been
10 incarcerated thirty-four months -- which is a long time --
11 the plea had been rescheduled a lot of different times, but
12 you had always accepted responsibility, correct?

13 A. I did.

14 Q. And she basically explained it that you put yourself
15 in the wrong place at the wrong time, right?

16 A. Yes.

17 Q. And of course when you took the stand, you apologized
18 to the mother and the family of the victim, did you not?

19 A. Yes, ma'am.

20 Q. And your lawyers asked that the court consider a range
21 of seven to ten years. That's what she asked for?

22 A. Yes, she did.

23 Q. And that was done with your consent, right?

24 A. Yes.

25 Q. And she -- of course when you testified, you made it

D. MAYO - EXAMINATION BY THE COURT

24

1 clear you're not a violent person, you don't have a violent
2 history and so forth, did you not?

3 A. Yes, ma'am, I did.

4 Q. You know, I don't have any authority to just change
5 your sentence. The only thing that I can do, if I believe
6 that you have not been competently represented, is to order
7 a new trial for you. You understand that?

8 A. Yes, ma'am.

9 Q. And, of course, that's going to be based on a finding
10 that I would have to make, that your attorney did not
11 competently represent you.

12 A. Yes, ma'am.

13 Q. But it seems like she made the projection in the
14 course of the plea that you were back at the car and,
15 therefore, merely present, did she not?

16 A. Yes, ma'am, she did.

17 Q. So, what is it I'm going to be able to do in terms of
18 finding that your lawyer was not competent? I feel for you
19 because I do think it's a long sentence, particularly for a
20 young man who's not got any violent record, and your record
21 in the Department of Corrections and at the Alvin S. Glenn
22 Detention Center was a perfect one. You did not get into
23 any trouble.

24 A. No, ma'am.

25 Q. You took it upon yourself to get your GED degree.

1 A. Yes, ma'am.

2 Q. Which I think is highly commendable, and to be in the
3 difficult circumstances of incarceration in the Department
4 of Corrections, it takes a mighty stalwart person to not
5 get into trouble, and you haven't gotten into any trouble,
6 have you?

7 A. No, ma'am.

8 Q. So, you see the dilemma I've got? I want to be able
9 to do something for you, but I've got to find your lawyer
10 is incompetence to do anything. So, I know you're sitting
11 there puzzling, well, what can I suggest that would help
12 the situation out.

13 A. And I'm not going to lie. I mean, I just feel like

14 ---

15 Q. You got too much time.

16 A. That, but I also feel like she could have defended me
17 better, a little better than what she did because, you
18 know, I mean, like, just, it's just the whole thing behind
19 me having all of this time and just being away from my, my
20 kids and my loved ones and to me losing someone so close to
21 me that I'll never see again in my life, and that's my
22 grandmother and my grandfather.

23 Q. And they died while you were incarcerated, right?

24 A. Correct.

25 Q. That's mighty tough.

D. MAYO - EXAMINATION BY THE COURT

26

1 A. So, you know, I just feel like she just could have
2 defended me a little better.

3 Q. Sure.

4 A. Talked to the solicitor that was over my case and just
5 ---

6 Q. Maybe gotten you a better deal?

7 A. Gotten me a better deal. That's, that's, that's
8 completely honest. I don't want to sit here and make up
9 some kind of fancy story or nothing like that. I'm just --
10 I just feel like she just could had did, did a better
11 defense job on my behalf.

12 Q. I understand.

13 THE COURT: Are there any further questions, Ms.
14 Kinard?

15 MS. KINARD: I don't believe so, Your Honor. Thank
16 you.

17 THE COURT: How about you, Mr. Thomas?

18 MR. THOMAS: No, ma'am.

19 THE COURT: All right, thank you, Mr. Mayo. You may
20 come down.

21 (THE WITNESS EXITS THE STAND.)

22 MR. THOMAS: Your Honor, if it please the court?
23 That's the applicant's case.

24 THE COURT: What's that?

25 MR. THOMAS: The applicant's case.

1 THE COURT: All right, and is there anything that you
2 would like to say in closing, Ms. Kinard?

3 MS. KINARD: Well, Your Honor, should the court find
4 it necessary, Ms. Singletary is here and I'd be prepared to
5 represent her. However, I'd also like to move for a
6 non-suit as I don't believe that the applicant has proved
7 his burden of either an involuntary guilty plea or
8 ineffective assistance of counsel.

9 THE COURT: Very good.
10 How about you, Mr. Thomas?

11 MR. THOMAS: Your Honor, we would -- I made a
12 strategic decision rather not -- as to whether to call
13 defense counsel, and I just assumed that she was going to
14 call her and I would have cross-examination. If she is not
15 going to call her, I would like to be able to call Ms.
16 Singletary.

17 THE COURT: Is Ms. Singletary present in the
18 courtroom?

19 MS. SINGLETARY: Yes, Your Honor, I am.

20 THE COURT: Very good. I'm going to permit it just in
21 the super abundance of caution that Mr. Mayo be given the
22 chance to present everything he'd like to present.

23 If you would come around, please, ma'am, Ms.
24 Singletary.

25 MS. SINGLETARY: Yes, Your Honor.

N. SINGLETARY - DIRECT EXAMINATION BY MS. KINARD

28

1 THE COURT: Thank you so much.

2 MR. THOMAS: Thank you, Your Honor.

3 NICOLE SINGLETARY, BEING DULY
4 SWORN, TESTIFIES AS FOLLOWS:

5 THE COURT: You may be seated, Ms. Kinard.

6 MS. KINARD: Your Honor, procedurally I was going to
7 ask. I'm happy to treat her as my witness and provide a
8 direct examination since Mr. Thomas is prepared to cross.

9 MR. THOMAS: That's fine, Your Honor.

10 THE COURT: Well, very good. That would be fine.

11 MS. KINARD: Thank you, Your Honor.

12 DIRECT EXAMINATION BY MS. KINARD:

13 Q. Good morning, Ms. Singletary.

14 A. Good morning.

15 Q. Thank you for being here. I have a few background
16 questions before we get into the case. How long have you
17 been practicing law?

18 A. Since January of 2006.

19 Q. And what portion of that approximately has been
20 criminal defense?

21 A. All of it.

22 Q. Do you recall how you became involved in this case?

23 A. Yes, ma'am. I actually took over the case for
24 Attorney Claxton.

25 Q. And was this -- were you with the public defender's

1 office? Was this is an appointment?

2 A. This was an appointment. We did a substitution of
3 counsel in order for me to take over the case.

4 Q. Do you recall how many times you met with Mr. Mayo?

5 A. I was looking back through my file, and it appears
6 that I met with him about seven times.

7 Q. Do you recall the basis of those meetings such as what
8 you discussed and what you went over?

9 A. Yes, ma'am. This is not going to be in order, but I'm
10 looking at my notes from July the 8th of 2013 where Mr.
11 Mayo told me that he would be willing to take five years
12 violent. That's what he wanted as it related to the plea
13 deal. He always said that he did not intend for his cousin
14 to actually shoot the victim. We actually talked about
15 strikes in South Carolina -- nonviolent, most serious,
16 serious, violent -- on that date. We talked about the
17 different pleas: a straight-up plea, a recommended plea, a
18 negotiated plea. We talked about -- at that time the
19 solicitor said that the offer was a cap of seventeen years.

20 On January the 21st, 2013, I talked to him about his
21 co-defendant and the fact that his co-defendant did not
22 want to go to trial. I told him that I have talked to his
23 solicitor, Hans Pauling, to see whether or not we can get a
24 reduction in the case. And then we talked about the fact
25 that my client was willing to testify against the

1 co-defendant.

2 It appears on December 29, 2012, we reviewed the
3 discovery. We went over the client's statement. As the
4 client -- as Mr. Mayo testified to earlier, he did have
5 some issues about the victim's credibility, so I notated on
6 here that Mr. Mayo said he was curious about the victim's
7 credibility, changing stories. That in one instance, the
8 victim said that he, Mr. Mayo, shot him over a girl. Then
9 later in the statement the victim said that Mr. Mayo's
10 cousin shot him. At that time, me and Mr. Mayo talked
11 about hand of one, hand of all. Then it appears we talked
12 about *Jackson vs. Denno*, and we reviewed his statements,
13 and we just talked about some inconsistencies that he had
14 with his statement. Then we talked about the fact that he
15 volunteered to go back and talk to the investigator.
16 That's why he had a second statement. We talked about the
17 facts of what happened on that night, and then we talked
18 about the -- I have defense of hand of one, hand of all,
19 him being merely present, the totality of the
20 circumstances. We talked about the differences between Mr.
21 Brown, his cousin, and him, given the fact that Mr. Brown
22 had prior violent tendencies. We talked about his
23 girlfriend at the time, her statement and her
24 inconsistencies. We talked about mitigation that we would
25 actually bring up in front of the judge on that date.

1 Then it appears September 26, 2012, I spoke to him.
2 We went over the facts of the case. He gave me some
3 background information on him. Again we talked about hand
4 of one, hand of all. We went over the discovery on this
5 date also. It appears that I called the solicitor on this
6 date also to get some information about the case. And
7 again on this, on this particular date, I notated that my
8 client was not interested in a trial. He wants a
9 negotiated sentence, that he would take five years'
10 probation or either two to three years.

11 Then it appears on February the 5th, 2014, I met with
12 my client. I informed him that his co-defendant got a new
13 lawyer and that I had been in discussions with the
14 solicitor and the co-defendant's new lawyer about setting a
15 new plea date soon. Then one of the things with me and Mr.
16 Mayo, he was having some issues with custody of his son.
17 So, we -- I, I gave him some advice about how he could get
18 custody or try to get custody of his son.

19 Then on September the 30th, 2013, we didn't have a
20 long conversation. We -- I, I notate that we met for
21 probably about seven to ten minutes on that date just to
22 get an update on the case.

23 I show that on July the 9th, 2013 that as it relates
24 to negotiations with the solicitor, that I spoke to the
25 solicitor and I asked for ten years. The solicitor told me

1 that he could not go below the seventeen. I explained
2 wanting to meet with the judge again because we had
3 previously met with the judge so I could talk to the judge
4 and tell him the facts and so we could kind of get a feel
5 for what would occur at a plea. The solicitor agreed we
6 could meet with the judge again, and then I notate that
7 after a lot of begging, the solicitor agreed to go down
8 from a cap of seventeen to a cap of sixteen.

9 I also have that on December the 7th, 2017, like, I
10 called the solicitor so that I could look through their
11 discovery to make sure that we had all discovery in the
12 case. On my notations, I have that we have no outstanding
13 discovery from the solicitor's office.

14 Q. Thank you very much. Would you characterize that as a
15 very full and thorough investigation of this case?

16 A. Yes.

17 Q. Did Mr. Mayo at any time tell you that he wanted to go
18 to trial?

19 A. No, ma'am.

20 Q. Did you ever start to prepare for trial?

21 A. Well, I won't say that we started to prepare for
22 trial. We started trying to go over possible defenses that
23 we had. So, when we were going over the discovery, like, I
24 mean -- and we went over every single word. We were
25 actually trying to see if there were any reliable defenses

1 that we could use because clearly -- Mr. Mayo stated that
2 he was not there at the time. So, that's why we were
3 trying to look at, like, him just merely being present.

4 The issue with that is that Mr. Mayo and the victim,
5 if I may characterize it this way, were the ones who,
6 according to the state's theory, they were the ones who had
7 the disagreement between each other and that Mr. Brown had
8 nothing to do with this situation, and that Mr. Mayo
9 actually called the victim on that night prior to going to
10 the home, and then Mr. Mayo called Mr. Brown and went and
11 picked up Mr. Brown and brought Mr. Brown to the victim's
12 home. So, we had some difficulties, given the fact that
13 Mr. Brown wasn't involved in this at all if not for Mr.
14 Mayo calling him, picking him up, and taking him to the
15 residence.

16 Q. So, you felt that kind of defeated the mere presence
17 defense?

18 A. Yes.

19 Q. Did Mr. Mayo ever provide you any leads or witnesses
20 for you to investigate?

21 A. I won't say that. I mean, we talked about his
22 girlfriend at the time, but as Mr. Mayo stated, I really
23 didn't trust that girlfriend. Like, I didn't want to
24 actually give, like, give her information by questioning
25 her, like, about the case whereas she would actually take

N. SINGLETARY - DIRECT EXAMINATION BY MS. KINARD

34

1 it to the other side because one of the things is, is that
2 she should have been held responsible also.

3 Q. Do you know why she wasn't?

4 A. They simply didn't charge her, and me and Mr. Mayo
5 talked about that a lot, the fact that -- I mean,
6 technically the argument was supposed to be about her. And
7 so, I mean, and she was with them on that night, so why are
8 they giving her a pass but, I mean, they're not, you know,
9 giving him a pass. So, that, that was a, a bone of
10 contention that we both had.

11 Q. Did you ever bring that up to the solicitor?

12 A. I did.

13 Q. And they didn't give you a satisfactory answer?

14 A. They did not.

15 Q. When it come to plea negotiations, do you feel you
16 exhausted your negotiation power?

17 A. I, I did because I'm going to tell you. Like, Mr.
18 Mayo was a pleasure, like, as a client to represent. And
19 so I, as you can see in my notes, I said that I begged the
20 solicitor over and over again to actually reduce the actual
21 plea agreement, but he just wouldn't. And the solicitor in
22 his communications with me simply said that he could not
23 because of the extent of the injuries to the victim.

24 Q. In the preparation for the entry of his plea, did you
25 discuss with Mr. Mayo what he would be giving up as far as

1 his constitutional rights?

2 A. Yes, I did.

3 Q. And you felt he understood all of that?

4 A. Yes, I did.

5 Q. And do you feel that pleading guilty was ultimately
6 his decision?

7 A. Yes.

8 Q. But you supported that decision?

9 A. Yes, I did.

10 Q. Okay, and do you have anything else you'd like the
11 court to know about your representation of Mr. Mayo?

12 A. Just briefly. I agree with Mr. Mayo. Given the fact
13 that he had no prior record, no other instances of
14 violence, that it's a tough pill to swallow when you get
15 that amount of time and you've never been in trouble
16 before. And I truly believe that he didn't want -- I think
17 they just went over there to scare the individual and it
18 just escalated. I don't think that he had in his mind
19 we're going to go over there and shoot him, but it just
20 escalated and at that point, I mean, there was no turning
21 back.

22 MS. KINARD: Thank you very much. I have no further
23 questions at this time.

24 THE COURT: All right, Mr. Thomas.

25 MR. THOMAS: If it please the court, Your Honor?

1 CROSS-EXAMINATION BY MR. THOMAS:

2 Q. Ms. Singletary, I was look -- I looked at the statute
3 for the attempted murder. Do you think the facts fit that
4 statute? It says:

5 A person who, with intent to kill, attempts to
6 kill another person with malice aforethought,
7 either expressed or implied, commits the offense
8 of attempted murder.

9 Then it goes on the say that:

10 Is guilty of a felony, upon conviction may be
11 imprisoned for not more than thirty years.

12 Do you think that there was sufficient facts to
13 support the attempted murder?

14 A. I do under the theory of hand of one, hand of all.

15 Q. Hand of one, hand of all?

16 A. Yes.

17 Q. Yeah.

18 A. I do.

19 Q. Okay, and do you think that in this situation, it
20 would have been better to -- I mean, it probably would not
21 have changed anything, but would it have been more of an
22 *Alford*-type plea than just a straight-up plea?

23 A. I -- one of the things that I will say is that Mr. --
24 in our discussions, prior to the shooting, Mr. Mayo
25 informed me that he did know that his cousin had a gun.

1 Q. Okay.

2 A. So, that makes a major difference to me. Like, due to
3 the fact that -- in reviewing my notes when he was
4 testifying, I saw that Mr. Mayo told me that prior to them
5 going, like, to the door, his cousin lift up his shirt to
6 show Mr. Mayo that he had a gun, so ---

7 Q. This was at, at the scene?

8 A. Yes, at the scene.

9 Q. All right.

10 A. So, I don't, I don't think that he could have done an
11 *Alford* plea ---

12 Q. Right.

13 A. --- based on me knowing that he knew that his cousin
14 had a gun. I'm not saying that he knew his cousin was
15 going to shoot, but he did know his cousin had a gun when
16 they were walking up to the door.

17 Q. But either way, he, in essence, walked away.

18 A. When the ---

19 Q. Would you categorize it that way?

20 A. Yes.

21 Q. He walked away from the situation?

22 A. When the struggle ensued, he walked away, yeah.

23 Q. Now, how about the -- and we're talking about the
24 victim. This gentleman, his statements were changing. I
25 mean, were they consistent with what Mr. Mayo said about he

1 shot me, and then he said, well, he told the cousin to
2 shoot me?

3 A. Yes.

4 Q. That's what you remember ---

5 A. Yes.

6 Q. --- from that?

7 A. I do. Yes.

8 Q. Okay, and I guess that is leading up to a question
9 about the probability of this case. Was this case triable?

10 A. Any case is triable.

11 Q. Yeah.

12 A. The ---

13 Q. I guess ---

14 A. --- likelihood, I think the likelihood of him being
15 convicted, like, I think he would have been ultimately
16 convicted.

17 Q. Okay.

18 A. And the only reason why I say that is because of his
19 girlfriend at the time. I believe her name was April, and
20 then with his cousin, like, both of them getting on the
21 witness stand and, and basically saying that Mr. Mayo went
22 over there looking for a fight, looking for something to
23 happen. I think that with their testimony and then Mr.
24 Mayo's statements that he made to law enforcement, I think
25 that ultimately a jury would have convicted him.

1 Q. Okay, and she was -- the girlfriend was the instigator
2 of this whole thing?

3 A. She was.

4 Q. Yeah.

5 MR. THOMAS: I have no further questions, Your Honor.

6 THE COURT: Very good, Mr. Thomas.

7 MR. THOMAS: Yes, ma'am.

8 THE COURT: Ms. Kinard?

9 MS. KINARD: No redirect, Your Honor, and the state
10 rests.

11 THE COURT: Thank you.

12 Ms. Singletary, you may step down.

13 WITNESS: Thank you, Your Honor.

14 (THE WITNESS EXITS THE STAND.)

15 THE COURT: The state has rested. Mr. Thomas,
16 anything further on behalf of the petitioner?

17 MR. THOMAS: Nothing further, Your Honor.

18 THE COURT: Very good.

19 RULING OF THE COURT:

20 THE COURT: I have much sympathy for a young man who
21 is incarcerated for this length of time for something that
22 was very ambiguous from the standpoint of intent. But I am
23 constrained to review this under the *Strickland* test, and
24 that requires me to measure the performance of Ms.
25 Singletary as Mr. Mayo's counsel under a presumption that

1 she rendered adequate assistance and the requirement that
2 the applicant prove that counsel's performance was
3 deficient.

4 The cited deficiencies have certainly been overcome by
5 Mr. Mayo's testimony himself, as well as by the testimony
6 of Ms. Singletary, his counsel. And the second prong would
7 be a finding that even if I found a deficiency in her
8 performance, it would have to have prejudiced the applicant
9 such that there is a reasonable probability that but for
10 counsel's unprofessional errors, the preceding result would
11 have been different.

12 This was always a plea, according to the testimony of
13 both Mr. Mayo and his counsel, and I am, therefore,
14 constrained to find that the petition must be dismissed for
15 failure to prove that counsel was ineffective and,
16 therefore, that the guilty plea was involuntary. The basic
17 complaint Mr. Mayo has is one that I am very sympathetic
18 with. I just think you got too much time, but
19 unfortunately that is not one of the things that I am
20 empowered to change.

21 And so, Ms. Kinard, if you will prepare me an order
22 along the lines that I have recited, I would appreciate it.

23 MS. KINARD: Yes, Your Honor.

24 MR. THOMAS: Your Honor, could I beg the court's
25 indulgence just for a second? My client was trying to tell

1 me something.

2 THE COURT: Certainly.

3 MR. THOMAS: May I ask him?

4 THE COURT: Certainly.

5 (COUNSEL CONFERS WITH APPLICANT.)

6 MR. THOMAS: Your Honor, he was -- he's just confused
7 about hands of one, hand of all, and I will, I'll talk with
8 him about that.

9 THE COURT: Very good.

10 MR. THOMAS: Yes, ma'am.

11 THE COURT: Thank you very much.

12 MR. THOMAS: Yes, Your Honor.

13 THE COURT: Good luck to you, Mr. Mayo.

14 Thank you, Mr. Thomas.

15 MR. THOMAS: Yes, ma'am. Thank you.

16 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH 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 HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 5TH DAY OF DECEMBER, 2016.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/ELIZABETH B. HARRIS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

MARCH 1, 2018

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
Fifth Judicial Circuit

Desmond Mayo, #359416,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

Case No. 2015-CP-40-1165

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed February 24, 2015, by Desmond Mayo (Applicant). Respondent (the State) made a "Return and Motion for More Definite Statement" on June 25, 2015, and also requested that an evidentiary hearing be held on the allegation of ineffective assistance of counsel. Thereafter, on November 3, 2015, Applicant, through his counsel Tommy Thomas, Esquire, filed an "Amendment to Application for Post Conviction Relief." An evidentiary hearing into the matter was convened on December 5, 2016, at the Richland County Courthouse before the Honorable Jean H. Toal. Applicant was present at the hearing and was represented by Tommy Thomas, Esquire. Assistant Attorney General Jessica E. Kinard of the South Carolina Attorney General's Office represented the State.

Applicant and his plea counsel, Nicole Singletary, Esquire, testified at the hearing. This Court also had before it a copy of the guilty plea transcript, the records of the Richland County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the application, the State's return, and the amended application.

I. PROCEDURAL HISTORY

The records before this Court indicate Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. In December 2011, the Richland County Grand Jury indicted Applicant for attempted murder (2011-GS-40-5683). Nicole L. Singletary, Esquire, ("Counsel") represented Applicant on this charge. Assistant Solicitor Hans W. Pauling of the Fifth Circuit Solicitor's Office prosecuted the case on behalf of the State. On April 1, 2014, Applicant appeared before the Honorable R. Ferrell Cothran, Jr., and pleaded guilty as indicted. Pursuant to a recommendation by the State of a cap of sixteen years, Judge Cothran sentenced Applicant to twelve years' imprisonment. Applicant did not appeal his guilty plea or sentence.

II. ALLEGATIONS

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

1. "Ineffective Assistance of Counsel"
 - a. "That the Applicant is informed and believes that he had the defense of mere presence and that he never discussed this issue with defense counsel."
2. "Involuntary Guilty Plea"
 - a. "That the Applicant is informed and believes that his guilty plea was not freely, voluntarily, intelligently and knowingly given for the following reasons."
 - i. "The Applicant was detained in the Richland County Detention Center for a period of 34 months prior to his plea. That as a result of the length of incarceration in the Detention Center he believes he was forced, or coerced in accepting the plea."

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- ii. "That the Applicant had a viable defense of mere presence. That there was evidence that he was in a vehicle when the alleged shooting took place."
- iii. "That he had no knowledge that the co-defendant had possession of a weapon, nor did he have any knowledge that the co-defendant intended to shoot the victim."

At the evidentiary hearing, Applicant went forward on these allegations, testifying on his own behalf. He also called Counsel to the stand. At the conclusion of the hearing, this Court ruled from the bench, finding the application must be dismissed for failure to prove Counsel was ineffective or that the guilty plea was involuntary. This written order now follows.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Guilty Plea

At the guilty plea proceeding, the solicitor described the facts of the attempted murder as

follows:

The incident date was May 5, 2011, approximately 2:25 in the morning, at in [sic] Columbia. That's in Richland County, South Carolina. The Defendants, Mayo and Davis, were driven to the incident by the girlfriend of Desmond Mayo. Her name is April Morning. Both April Morning and the victim, Rondon Brown, along with Desmond Mayo, worked at Fort Jackson in the soldiers' cafeteria. Earlier in the day, April Morning and Mr. Brown had gotten into a verbal altercation at work. April Morning then asked Defendant Mayo to "handle" Victim Brown. Morning took Mayo to pick up Mr. Jarquis Davis. Davis brought his gun. Both Mayo and Davis confronted Brown once they arrived at the incident location. According to the victim, Defendant Mayo ordered

Defendant Davis to shoot the victim. Defendant Davis fired no less than four times striking the victim, and according to the investigative report, Defendant Davis said that his gun had jammed. Both Defendant Mayo and Davis then fled the scene in the vehicle that they arrived in driven by Morning. Mayo was the front seat passenger and Davis was in the back seat. According to April Morning, Davis admitted to shooting Victim Brown and the Columbia Police Department interviewed the victim at the hospital. The victim stated that he could identify both subjects and that he did so without hesitation.

The victim, Your Honor, Mr. Brown, has had extensive medical injuries. He also suffers from lifelong paralysis from the chest down. He is here in attendance, but his mother would choose to address the Court at the appropriate time.

The plea judge asked Applicant if the facts recited were correct. Both Applicant and his codefendant testified they were. Applicant further testified he was pleading guilty to the crime because he was guilty. (Tr.p.7-p.8). The court found there was a factual basis for the plea and Applicant had entered the plea voluntarily with the advice of competent counsel. (Tr.p.8). Counsel then presented mitigating information, focusing on the claim that Applicant was in the back of the vehicle when the shots were fired. She said: "my client strongly disagrees with the fact that he ordered his co-defendant to actually shoot the victim in this case; however, he is accepting responsibility here today, Your Honor." (Tr.p.10-p.11). Applicant then offered a lengthy apology, stating in part: "I would like to extend my deepest, sincere apology to [Victim] and [Victim's] family and my family as well. . . . I have come to understand that my actions did not only hurt my family, but it hurt my victim and my community as well." (Tr.p.13-p.15).

PCR Hearing

At the evidentiary hearing, Applicant testified on his own behalf. He acknowledged he was in court for a PCR hearing, said he was aware of the crime to which he pled guilty and the sentence he received, and said that despite the possible exposure if he was granted relief he still

wished to proceed. In regard to the facts of the offense, Applicant testified he did not have a gun and was back at the car when the shooting took place. He complained about having to spend approximately three years in the detention center prior to his plea, and claimed that though he eventually got a copy of the discovery, Counsel did not sit down and go over it with him. He also claimed Counsel never really went over possible defenses. Applicant insisted his position prior to the plea was always that he was not guilty of the crime, and the whole situation was caused by his girlfriend, April, who had been stirring the pot between him and the victim. He repeated his claim that he did not have a gun. He said had no intention to bring any harm to victim, noting he had walked away from the house and back to the car during the argument. Applicant said he had no idea his cousin was going to shoot the victim and did not even know he had a gun. He claimed he did not feel like his plea was freely and voluntarily given or that it was knowing and intelligent. Applicant complained Counsel said she might be able to get him a sentence of five years when that did not turn out to be true. (Tr. pp. 4-16).

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On cross-examination, Applicant acknowledged talking to Counsel about his version of the events and believed she understood his position. He admitted he understood the terms of the plea offer and the State's recommendation of sixteen years when he pled guilty, but claimed he felt like he was forced to take it because Counsel said the only other option was to go to trial. Applicant admitted he chose to plead guilty rather than go to trial and admitted he testified at the plea proceeding that he was not threatened or coerced or promised anything in exchange for his plea. Finally, Applicant admitted he told the plea judge he was satisfied with the services of Counsel. (Tr. pp.16-20). On redirect Applicant described how emotionally excruciating it was to be in the detention center for so long and claimed he would have done anything to get out. (Tr. pp. 20-21). Under further examination by this Court, Applicant acknowledged Counsel's efforts

at the plea to give the judge his version of events, including the idea that his codefendant did the shooting and he was merely present. Applicant ultimately admitted to this Court that his primary complaint was simply that he feels like he got too much time and believes Counsel could have done more to get him a better plea deal. (Tr.p.21-26).

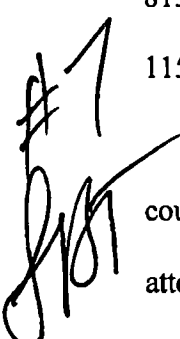
Next, Applicant called Counsel to the stand. Counsel testified she has been practicing law since 2006 and all of her practice involved criminal defense. Upon reviewing her file, she testified she met with Applicant seven times prior to the plea. She recounted the dates of each meeting and the specific topics discussed. She testified they first discussed the fact that he was willing to take five years for a plea. Counsel further testified she and Applicant discussed the facts of the offense, including his version of those facts, and the actions of his codefendant during the incident. Counsel testified they reviewed discovery, including Applicant's statement to the police. She testified they discussed the concept of "the hand-of-one-is-the hand-of-all," the defense of mere presence, and possible mitigation. Counsel detailed her plea negotiations with the solicitor and the ultimate offer of a cap of sixteen years. She testified she felt she did a full and thorough investigation of the case, and Applicant never told her he wanted to go to trial. Counsel explained, however, that they discussed possible defenses should the case go to trial, including mere presence. Counsel then described her discussions with Applicant about his girlfriend and her relative culpability, which she tried to use as a negotiating point with the solicitor to no avail. She testified the decision to plead guilty was ultimately Applicant's decision, but she supported that decision. (Tr. pp. 28-35).

On cross-examination, Counsel testified she believed there were sufficient facts to support the charge of attempted murder against Applicant even though his codefendant was the one who pulled the trigger. She said the case was "triable," but she believed Applicant

ultimately would have been found guilty by a jury. (Tr. pp. 35-39). At the conclusion of the hearing, this Court ruled from the bench, finding the application must be dismissed for failure to prove counsel was ineffective or that the guilty plea was involuntary. (Tr. pp. 39-40).

Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, the applicant must prove “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813. The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813. The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

 Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under professional norms.” Id. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 117-18, 386 S.E.2d at 625. In order to satisfy the prejudice prong of this test following a guilty plea, the applicant “must show that there is a reasonable probability that, but for counsel’s errors, [s]he

would not have pleaded guilty and would have insisted on going to trial.” Hill v. Lockhart, 474 U.S. 52, 59 (1985).

After careful review based on the standard discussed above, this Court finds Applicant has failed to carry his burden in this action. Below are this Court’s findings in regards to each of Applicant’s allegations of ineffective assistance of counsel.

A. Counsel’s alleged failure to investigate the defense of mere presence and to discuss this defense with Applicant

Applicant alleges Counsel was ineffective for failing to investigate the possible defense of mere presence. Applicant further contends Counsel was ineffective for failing to discuss this possible defense with him prior to the guilty plea. This Court disagrees and finds Counsel rendered effective assistance.

“Although counsel should conduct a reasonable investigation into potential defenses, Strickland does not impose a constitutional requirement that counsel uncover every scrap of evidence that could conceivably help their client.” Tucker v. Ozmint, 350 F.3d 433, 442 (4th Cir. 2003) (quoting Green v. French, 143 F.3d 865, 892 (4th Cir. 1998)). “In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel’s judgments.” Wiggins v. Smith, 539 U.S. 510, 521-22 (2003). Here, Counsel testified she did, in fact, investigate whether or not Applicant would have a viable defense based on mere presence. Further, Counsel discussed this defense with Applicant on more than one occasion. Her testimony in this regard is credible. This Court finds Applicant has wholly failed to establish any deficiency on the part of Counsel in regard to the defense of mere presence.

Similarly, this Court finds Applicant has failed to establish any resulting prejudice from this alleged deficiency. Because Applicant did not produce any evidence beyond his own version of the incident, a version shared with Counsel prior to the plea, any claim about what additional evidence might have been or how it would have helped establish mere presence is "purely speculative." Bannister v. State, 333 S.C. 298, 304, 509 S.E.2d 807, 810 (1998). This Court finds this allegation must be denied and dismissed with prejudice.

B. Involuntary Guilty Plea

Applicant further alleges his guilty plea was not freely and voluntarily made for three reasons. First, he claims being held in the Richland County Detention Center without being able to make bond for 34 months effectively forced or coerced him into taking the plea. Second, he claims his plea was involuntary because he had a viable defense of mere presence. Third, he claims his plea was involuntary because he had no knowledge his codefendant had possession of a weapon or that his codefendant intended to shoot the victim. This Court finds Applicant's claims are entirely without merit, that his guilty plea was freely and voluntarily made, and that his testimony suggesting it was not voluntary is simply not credible. The record of the guilty plea proceeding itself establishes the intelligent and voluntary nature of the plea. Further, the testimony at the PCR hearing reveals the plea was knowing and voluntary.

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In evaluating issues concerning guilty pleas, this Court will consider the entire record, including the transcript of the guilty pleas and the evidence presented at the post-conviction relief hearing. Roddy v. State, 339 S.C. 29, 528 S.E.2d 418 (2000). Voluntariness of a guilty plea is not merely determined by an examination of a specific inquiry by the plea court alone but rather is determined by the record of both the guilty plea proceeding and the post-conviction relief hearing. Id. In order to find a guilty plea was knowingly and voluntarily entered into, the

record must establish the defendant had a full understanding of the consequences of her plea and the charges against her. Boykin v. Alabama, 395 U.S. 238 (1969). Further, “[a] guilty plea is a solemn, judicial admission of the truth of the charges” against the applicant; thus, an applicant’s right to contest the validity of such a plea is usually foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975)); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Further, “[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant’s lawyer withstand retrospective examination in a post-conviction hearing.” McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, “whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel’s advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases.” Id. at 771.

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This Court finds Applicant’s allegations in regard to voluntariness are without merit. Applicant has failed to carry his burden of proving that his guilty plea was involuntarily made. The record before this Court reflects that the plea court thoroughly reviewed all of Applicant’s constitutional rights with him, including his right to a jury trial. Upon explanation of each constitutional right, Applicant indicated he understood and waived his constitutional rights. Applicant further indicated he understood he was giving up his right to raise defenses. Finally, Applicant testified no one had promised him anything, threatened him, or forced him to plead

guilty. This Court finds Applicant's testimony at the plea conclusive. He has failed to present valid reasons why he should be allowed to depart from their truth.

This Court finds Counsel's testimony at the PCR hearing concerning this allegation credible, whereas Applicant's testimony is not credible. While this Court accepts as true Applicant's claim that he felt pressure to either plead guilty under the terms offered by the State or go to trial, this is the same pressure felt by all criminal defendants in similar circumstances and it does not render his plea involuntary. Similarly, the length of Applicant's incarceration in the detention center prior to his informed decision to plead guilty is of no moment where, at the plea, he was given the opportunity to explain whether any factor or circumstance was causing him to feel forced or coerced to plead, yet he testified he was not suffering from any threat.

As to Counsel, she testified she reviewed all discovery materials with Applicant and reviewed the charge he was facing, possible defenses available in the event of a trial, and his version of the incident. Again, this Court finds Counsel's testimony credible. Appellant entered the plea knowingly and voluntarily.

Therefore, this Court finds Applicant had a full understanding of the consequences of his plea and the charges against her, and the plea court correctly found Applicant's plea was freely, voluntarily, and intelligently made. Consequently, this allegation must be denied and dismissed with prejudice.

CONCLUSION

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

This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if an applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That this application for post-conviction relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to and remain in the custody of the State.

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AND IT IS SO ORDERED this 22nd day of August, 2018.

THE HONORABLE JEAN H. TOAL
Presiding Judge
Fifth Judicial Circuit

Columbin, South Carolina

WITNESSES

(S) WILLIAM PEGRAM - Columbia Police Department

ARREST WARRANT NUMBER

K688547

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

DEC 08 2011

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011GS4005683

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2011

87

THE STATE

vs.

Desmond H Mayo

**Indictment for
ATTEMPTED MURDER**

SC Code: 16-03-0029

CDR Code: 3410

After being fully advised as to my legal rights, I hereby waive my right to the Grand Jury.

Defendant

I Desmond H. Mayo
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
James H. Williams
C.C. P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)


INDICTMENT

At a Court of General Sessions, convened on DECEMBER 7, 2011,
 the Grand Jurors of Richland County present upon their oath:

ATTEMPTED MURDER

That Desmond H Mayo did in Richland County on or about May 5, 2011,
 did with the intent to kill, attempt to kill RONDON BROWN with malice
 aforethought either expressed or implied. All in violation of SC Code of
 Laws § 16-3-19 (1976, as amended).

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Richland
STATE VS.

Desmond H Mayo

AKA: _____

Race: BLACK Sex: M Age: 23

DOB: [REDACTED] SS#: [REDACTED]

Address: _____

City, State, Zip: COLUMBIA, SC 29203

DL#: _____ SID#: _____

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
TO: Attempted Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS4005683

A/W#: K688547

Date of Offense: 5/5/2011

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410
 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: Hans W Pauling 608002 X 19 May Desmond H Mayo 73950
Pauling, Hans 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 12 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 1030 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 _____

Recipient: _____

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

PTUP _____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

~~SOUTH CAROLINA~~

~~RICHLAND COUNTY~~

~~C.C.P.R.S.~~

~~APPOINTED PD OR APPOINTED OUT OF COUNTY COUNSEL~~

~~§ 47.12 requires \$500 be paid to the State~~

~~during probation.~~

Clerk of Court/ Deputy Clerk

Jeanette McBride
S. Johnson

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2144

Sentence Date: 7-1-14

[Signature]
CERTIFIED TRUE COPY
OF ORIGINAL FILED
JUL 1 2014
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA