

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable Robin B. Stilwell, Circuit Court Judge

RECEIVED

JAN 16 2018

GREGORY DANIEL PRICE,

S.C. SUPREME COURT

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-001684

APPENDIX

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State of South Carolina,)
)
 Plaintiff,)
)
 vs.) Transcript of Record
)
 Gregory Danny Price,)
)
 Defendant.)
)
)

August 4, 2015
Spartanburg, South Carolina

B E F O R E:

The Honorable L. Casey Manning, Judge

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

Grady B. Anthony, Assistant Solicitor
Attorney for Plaintiff

James A. Cheek, Esquire
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Circuit Court Reporter

I N D E X

Gregory Danny Price

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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No exhibits marked during proceeding.

1 GREGORY PRICE, HAVING BEEN FIRST DULY SWORN, TESTIFIED
2 AND STATED AS FOLLOWS:

3 MR. ANTHONY: Your Honor, before you is Gregory Danny
4 Price. He's represented in this case by Mr. James Cheek.
5 He's before you on true-billed Indictments number 2009-
6 2694; that's for manufacturing and -- or distributing
7 methamphetamine third offense. He's pleading to a first.

8 He's also before you on 2009-2698. That's also for
9 manufacturing/distributing methamphetamine third. It's,
10 it's -- he's pleading it as a first, Judge. Also, 2009 ---

11 MR. CHEEK: Cocaine. Cocaine.

12 MR. ANTHONY: That's the last one, James. 2009-2694,
13 that's possession ---

14 MR. CHEEK: It's for ---

15 MR. ANTHONY: --- of crack.

16 MR. CHEEK: --- all cocaine.

17 MR. ANTHONY: Oh, they're ---

18 MR. CHEEK: And for ---

19 MR. ANTHONY: --- all ---

20 MR. CHEEK: --- the record, Your Honor, they are all
21 cocaine.

22 MR. ANTHONY: I apologize, Judge. I'm covering ---

23 THE COURT: That's all right.

24 MR. ANTHONY: --- this one for Mr. Bass. He's also
25 here on 2015-GS-42-2773. He's waiving presentment to a

1 grand jury on that charge. It's for forgery. Also, 2015-
2 2775, that's for forgery as well, Judge. It's being waived
3 -- waiving presentment to a grand jury. The state's agreed
4 to dismiss a financial-identity-fraud charge that goes
5 along with those charges, Judge.

6 The -- on the drug offenses, Judge, the state's
7 recommendation is one to ten, concurrent. On the property
8 offenses, Judge, we'd just simply recommend running those
9 concurrent with all the drug charges.

10 THE COURT: All right.

11 MR. ANTHONY: I'm also passing up a restitution order,
12 Judge, for \$311.

13 (OFF THE RECORD BRIEFLY.)

14 THE COURT: Yes, sir, Solicitor.

15 MR. ANTHONY: Thank you, Your Honor. May it please
16 the Court? On the manufacturing first offense, Judge, this
17 is October 20th, 2008. Defendant sold cocaine ---

18 THE COURT: No, no, no, no, no. We haven't even
19 started yet. You got to back up. Has he already gone
20 through -- I was just looking at the indictments. So,
21 let's start from the beginning.

22 MR. ANTHONY: Sure. Judge, he's here on two charges,
23 or they're -- they're both true-billed: 2009-2694 and 2009-
24 2698. Those are both manufacturing or distribution-of-
25 crack-cocaine charges.

1 THE COURT: He's keeps saying cocaine. Are y'all
2 going to argue about that? I don't care what it is.

3 MR. CHEEK: Well, it is ---

4 MR. ANTHONY: No. Judge ---

5 MR. CHEEK: --- cocaine, Your Honor.

6 MR. ANTHONY: --- I, I think I originally said meth.
7 I, I, I ---

8 THE COURT: No, no.

9 MR. ANTHONY: It's cocaine.

10 THE COURT: I think you said crack and he kept saying
11 cocaine.

12 MR. CHEEK: No. He ---

13 THE COURT: You didn't ---

14 MR. CHEEK: --- didn't.

15 THE COURT: --- say meth.

16 MR. CHEEK: He said methamphetamine, Your Honor. It's
17 not methamphetamine.

18 MR. ANTHONY: Now he's, now he's pointing ---

19 THE COURT: Hey.

20 MR. ANTHONY: --- over here.

21 THE COURT: That's why at the end of the day there
22 comes a point where you should just stop when you all sort
23 of get tired. But it's all right. We'll try to get
24 through this one.

25 So, it's possession of crack cocaine, not

1 methamphetamine, distribution of cocaine, not -- two, two
2 distributions of coke and one crack and then two forgeries.
3 Is that right?

4 MR. ANTHONY: That's right. He's pleading ---

5 THE COURT: Okay.

6 MR. ANTHONY: --- to two ---

7 THE COURT: All right.

8 MR. ANTHONY: --- to two distribution-first of crack.
9 And then there's two forgeries as well to go along ---

10 THE COURT: And something about, on the drug charges,
11 one to ten, some recommendation. What was it?

12 MR. ANTHONY: That's correct, Judge, one to ten is the
13 range for the ---

14 THE COURT: Oh, yeah. Yeah. Okay. All right, but
15 there's no specific -- I see a recommendation on here.
16 What is it?

17 MR. ANTHONY: The, the recommendation is just the ---

18 THE COURT: Concurrent?

19 MR. ANTHONY: --- concurrent on the property charges,
20 concurrent with all the ---

21 THE COURT: Okay. All right.

22 MR. ANTHONY: --- all the drug charges.

23 THE COURT: Is that basically correct, Mr. -- okay.

24 MR. CHEEK: Yes, sir ---

25 THE COURT: I'll revisit ---

1 MR. CHEEK: --- Your Honor.

2 THE COURT: --- it later on. So, Mr. Cheek, you
3 represent Gregory Price?

4 MR. CHEEK: I do, Your Honor.

5 THE COURT: Have you explained to Mr. Price the
6 charges contained in these five indictments, the possible
7 punishments, and his rights, including his constitutional
8 right to a jury trial?

9 MR. CHEEK: I have, Your Honor.

10 THE COURT: In your opinion, does Mr. Price understand
11 the charges, the punishments, and his right -- rights?

12 MR. CHEEK: Yes, sir.

13 THE COURT: How does he indicate to you he wishes to
14 plead, guilty or not guilty?

15 MR. CHEEK: Guilty, Your Honor.

16 THE COURT: You agree with his decision to plead
17 guilty?

18 MR. CHEEK: I do, Your Honor.

19 THE COURT: Have -- from your investigation of the
20 facts and circumstances around these cases, do you feel
21 that the state could produce sufficient evidence to
22 convince a jury here in Spartanburg County of Mr. Price's
23 guilt beyond a reasonable doubt, and if he were to stand
24 trial on these charges, his convictions would be probable?

25 MR. CHEEK: Yes, sir, Your Honor.

1 THE COURT: And has Mr. Price been ordered to submit
2 to a mental examination to determine his competency to
3 stand trial?

4 MR. CHEEK: He has not, Your Honor.

5 THE COURT: Any question in your mind, Mr. Cheek, that
6 Mr. Price is, in fact, competent to enter this guilty plea?

7 MR. CHEEK: None whatsoever, Your Honor.

8 EXAMINATION BY THE COURT:

9 Q. All right. You are Gregory Price. Is that correct?

10 A. Yes, sir.

11 Q. Mr. Price, before I can accept your plea of guilty, it
12 is necessary for me to make sure that you're making this
13 plea freely and voluntarily. To do that, sir, I need to
14 ask you a series of questions.

15 At any point during my questioning of you, if you do
16 not understand anything I say, any words that I use, please
17 stop me. I'll be more than happy to repeat or explain
18 anything I say, Mr. Price. Additionally, I'll be more than
19 happy to stop this plea and allow you as much time as you
20 feel you may need to consult with your lawyer, Mr. Cheek.
21 Do you understand, sir?

22 A. Yes, sir.

23 Q. How old are you, Mr. Price?

24 A. Thirty-nine.

25 Q. Thirty-nine. How far did you go in school?

G. PRICE - EXAMINATION BY THE COURT

9

1 A. I got my GED.

2 Q. All right. What kind of work have you done?

3 A. A little construction, restaurant, and loading.

4 Q. All right. Mr. Price, have you ever been treated for
5 the abuse of alcohol or drugs or for mental illness?

6 A. Yes. I had, I had a mental evaluation when I was
7 young, but as far as drugs, no.

8 Q. Okay. When you were young? I mean, how young?
9 You're thirty-nine now you say?

10 A. Fifteen.

11 Q. Okay. All right. Have you taken any medications,
12 drugs, or alcohol in the past twenty-four hours?

13 A. No, sir.

14 Q. Are you aware today of any physical, nervous, or
15 emotional problem that might keep you from understanding
16 what you're doing?

17 A. No, sir.

18 Q. You know what you're doing, Mr. Price. Is that
19 correct?

20 A. Yes, sir.

21 THE COURT: You agree, Mr. Cheek, that Mr. Price knows
22 and understands and appreciates what he's doing?

23 MR. CHEEK: I do, Your Honor.

24 THE COURT: All right.

25 BY THE COURT:

G. PRICE - EXAMINATION BY THE COURT

10

1 Q. Now, Mr. Price, you heard your lawyer, Mr. Cheek, tell
2 me that he has explained to you the charges contained in
3 these five indictments, the possible punishment, and your
4 rights, including your right to a jury trial, and that you
5 understand these things. Is that correct?

6 A. Yes, sir.

7 Q. Mr. Price, you are first before me on indictment
8 2015-2773, *The State vs. Gregory Price*. This is an
9 indictment for forgery less than \$10,000. Do you
10 understand this charge?

11 A. Yes, sir.

12 Q. This indictment, Mr. Price, alleges that you did here
13 in Spartanburg County on or about December 12, 2009,
14 knowingly, with the intent to defraud, that you, let's see,
15 that you forged check number 1064 in the amount of \$142.69
16 drawn on the account of Rodney Booker. You understand this
17 allegation?

18 A. Yes, sir.

19 Q. Want to plead guilty to forgery. Is that correct?

20 A. Yes, sir.

21 Q. You realize that by doing so, sir, you can go to jail
22 for five years and be fined \$5,000 for this? You
23 understand that?

24 A. Yes, sir.

25 Q. Knowing then, sir, that you can go to prison for five

G. PRICE - EXAMINATION BY THE COURT

11

1 years by pleading guilty to forgery, do you still wish to
2 plead guilty to it?

3 A. Yes, sir.

4 Q. Next, Mr. Price, have before me indictment number
5 2015-2775. Once again this is an indictment for forgery.
6 Once again, Mr. Price, I assume you understand the charge.
7 Is that fair enough?

8 A. Yes, sir.

9 Q. This indictment, sir, alleges that you did here in
10 Spartanburg County on or about December 15, 2009, that you
11 forged check number 1079 in the amount of \$169 drawn to the
12 account -- on the account of Rodney Booker. You understand
13 this once again? Same person, same account. You want to
14 plead guilty to forgery once again, is that correct,
15 realizing by doing so, Mr. Price, do you not, that you
16 could go to jail for five years, be fined \$5,000?

17 A. Yes, sir.

18 Q. Knowing that, you still want to plead guilty?

19 A. Yes, sir.

20 Q. All right. Next, Mr. Price, I have before me
21 indictment number 2009 -- has some whiskers on it. They're
22 gray.

23 THE COURT: Did he abscond or something like that?
24 They picked him up on a bench warrant?

25 MR. CHEEK: Yes, sir, Your Honor. He was picked up in

1 the state of Maryland and brought back here.

2 THE COURT: Okay. All right.

3 BY THE COURT:

4 Q. Indictment 2009-2697, *The State vs. Gregory Price*.

5 This is -- you're pleading guilty to distribution of
6 cocaine first, all right? You understand this allegation?

7 A. Yes, sir.

8 Q. I meant you understand the charge. The indictment
9 alleges, Mr. Price, that you did here in Spartanburg County
10 on or about October the 20th of 2008 possess with intent to
11 distribute -- or you distributed, actually, a quantity of
12 cocaine. Do you understand this?

13 A. Yes, sir.

14 Q. Want to plead guilty, distribution cocaine first
15 offense? Is that correct?

16 A. Yes, sir.

17 Q. Realize that by doing so, Mr. Price, that you could go
18 to jail for fifteen years and be fined \$25,000. Knowing
19 that, you still want to plead guilty? Is that correct?

20 A. Yes, sir.

21 Q. All right. Next, Mr. Price, I have before me
22 indictment number 2009-2698, *State vs. Gregory Price*. Once
23 again distribution of cocaine. I assume this is being
24 taken as a first. It is, and you understand that charge,
25 or the charge, do you not, sir?

G. PRICE - EXAMINATION BY THE COURT

13

1 A. (NO AUDIBLE RESPONSE.)

2 Q. The indictment, sir, alleges that you did here in
3 Spartanburg County on or about December 17, 2008, that you
4 distributed a quantity of cocaine. You understand that.

5 A. Yes, sir.

6 Q. Do you? And once again you want to plead guilty to
7 distribution of cocaine. You realize once again, do you
8 not, Mr. Price, that by doing so, you could go to jail for
9 fifteen years and be fined \$25,000?

10 A. Yes, sir.

11 Q. Knowing that, you still want to plead guilty?

12 A. Yes, sir.

13 Q. All right, and next, Mr. Price, I have before me
14 indictment number 2009-2694, *State vs. Gregory Price*. This
15 indictment is possession of cocaine second offense. Do you
16 understand this charge, sir?

17 A. Yes, sir.

18 Q. This indictment, sir, alleges that you did here in
19 Spartanburg County on or about July 13th of 2009 possess or
20 attempt to possess a quantity of cocaine, this being a
21 second offense. You understand the charges?

22 A. Yes, sir.

23 Q. I mean, you understand the allegation? This is what
24 you want to plead guilty to once again. Realize by
25 pleading guilty to possession of cocaine second offense

1 less than a gram, you can go to jail for five years and be
2 fined \$7,500, I think it is. You understand that?

3 A. Yes, sir.

4 Q. Knowing that, you still want to plead guilty.

5 Now, Mr. Price, are you currently on probation or
6 parole for any prior offenses?

7 A. No, sir.

8 Q. And looks like I could run the sentences on these five
9 indictments consecutively, Mr. Price. If I did so, looks
10 like you're looking at forty-five years in jail. Is that
11 about right, forty or forty-five.

12 THE COURT: Can anybody count up to that high other
13 than me?

14 Q. All right, fifteen apiece on the distribution. That's
15 thirty. You got five apiece on the two forgeries. That's
16 forty. That's a five-year -- that's forty-five. Looking
17 at forty-five years in jail, you know that, if I ran the
18 sentences on all five of these charges consecutively,
19 stacked them on top of each other? You understand that?

20 A. Yes, sir.

21 Q. All right. Knowing this, sir, that you could go to
22 prison for forty-five years by pleading guilty to these
23 five charges, do you still want to plead guilty to them?

24 A. Yes, sir.

25 Q. All right, you do?

G. PRICE - EXAMINATION BY THE COURT

15

1 A. Yes, sir.

2 Q. Okay. Now, Mr. Price, when you're pleading guilty,
3 you have to give up certain rights. First of all, you have
4 to give up your right to remain silent. Now, this is your
5 right against self-incrimination, Mr. Price, your right to
6 say nothing at all. No one can compel you to come into
7 court to provide evidence or to testify against yourself.
8 Do you understand that?

9 A. Yes, sir.

10 Q. Secondly -- you need to speak up, sir.

11 A. Yes, sir.

12 Q. Secondly, Mr. Price, when you plead guilty, you have
13 to give up your right to a jury trial. That is your right
14 for a jury here in Spartanburg County to decide whether or
15 not you're guilty of these five charges beyond a reasonable
16 doubt. A jury would base its decision on whatever evidence
17 the state would introduce at trial against you and also on
18 whatever evidence you and your lawyer, Mr. Cheek, may wish
19 to introduce.

20 Now, Mr. Price, I emphasize may wish to introduce,
21 sir, because in a trial you'd be presumed innocent. Would
22 not have to prove anything, and you could not be convicted
23 unless the state could convince all twelve jurors of your
24 guilt beyond a reasonable doubt. The jury's decision would
25 have to be unanimous; all twelve would have to agree that

1 you are guilty on all five of these charges. You
2 understand that, sir?

3 A. Yes, sir.

4 Q. Speak up a little bit, Mr. Price.

5 A. Yes, sir.

6 Q. Thirdly, sir, when you plead guilty, you give up your
7 right to confront and to be confronted by the witnesses
8 against you. That is your right to see, hear, and
9 cross-examine any witnesses the state -- might testify
10 against you during a trial. In addition, Mr. Price, by
11 pleading guilty you give up your right to subpoena and call
12 witnesses on your own behalf. That is someone who may
13 testify for you. You understand that, sir?

14 A. Yes, sir.

15 Q. Now, fourthly, Mr. Price, indictments number
16 2015-2773, forgery, and 2775, both forgeries, these two
17 indictments, Mr. Price, have not been presented to or
18 considered by the Spartanburg County grand jury. After
19 hearing evidence, twelve of the eighteen members of the
20 grand jury have to agree that you're probably guilty of
21 these two forgeries, forgeries before true bills of
22 indictment can be returned indicating that these two cases
23 would be ready for trial. It's possible, Mr. Price, that
24 the grand jury could no bill these two indictments, which
25 would mean that cases against you could be dismissed.

G. PRICE - EXAMINATION BY THE COURT

17

1 Now, do you want these two forgery charges considered
2 by the Spartanburg County grand jury, or you want to waive
3 presentment and continue with your guilty plea here and
4 now?

5 A. I want, I want to waive presentment.

6 Q. You sure about that?

7 A. Yes, sir.

8 Q. Now, do you understand these rights I just mentioned
9 to you, Mr. Price?

10 A. Yes, sir.

11 Q. Do you? All right. Do you understand, sir, that when
12 you plead guilty, you have to give up these constitutional
13 rights?

14 A. Yes, sir.

15 Q. Once again you need to speak up, okay? Is that what
16 you want to do? You want to give up your constitutional
17 rights?

18 A. Yes, sir.

19 Q. You realize you will not receive a jury trial on any
20 of these five charges by pleading guilty to them?

21 A. Yes, sir.

22 Q. Once again, Mr. Price, you're pleading guilty to two
23 counts of distribution of cocaine, first offense. Carries
24 up to ten years and \$25,000 fine, two counts of forgery,
25 five years apiece, and the third one is -- where's the

1 other charge? Oh, simple possession, which carries five
2 years. I've explained already I think you're facing
3 forty-five years in jail if I ran the sentences
4 consecutively.

5 You're giving up all your constitutional rights, Mr.
6 Price. Now, sir, considering what I just said to you, I'll
7 ask you once again. How do you wish to plead to these
8 charges, guilty or not guilty?

9 A. Guilty.

10 Q. You realize, Mr. Price, that when you plead guilty,
11 you admit the truth of the allegations contained in these
12 indictments against you. You understand that?

13 A. Yes, sir.

14 Q. I tell you that, sir, because you may have some
15 defenses to these charges, Mr. Price. Of course I have no
16 way of knowing that, but you need to realize that by
17 pleading guilty today, you give up any defenses you might
18 have. Do you understand that?

19 A. Yes, sir.

20 Q. In addition, Mr. Price, I tell you that because when
21 you were arrested by the Spartanburg County Sheriff's
22 Department, and I guess all these are sheriff's department
23 from years ago. When you were you arrested by the
24 Spartanburg County Sheriff's Department, you may have given
25 some type of incriminating statements. That is, made some

G. PRICE - EXAMINATION BY THE COURT

19

1 admissions or confessions about your guilt. You need to
2 realize that by pleading guilty here today, you waive your
3 right to later on challenge or contest, if you gave any
4 statements, whether or not they were taken or obtained from
5 you freely and voluntary in accordance with your
6 constitutional rights. Do you understand that, sir?

7 A. Yes, Your Honor.

8 Q. Now, Mr. Price, I'll ask you once again. Did you
9 commit these offenses?

10 A. Yes, sir.

11 Q. So once again, sir, you're telling me you're pleading
12 guilty to indictment 2015-2775, forgery, because you did
13 here in Spartanburg County back on December 15, 2009, forge
14 check number 1079 in the amount of \$169 drawn on the
15 account of Rodney Booker. Pleading guilty because you are
16 guilty. You forged this check. Is that correct?

17 A. Yes, sir.

18 Q. And once again, Mr. Price, in connection with
19 indictment 2015-2773, another forgery, back on December 12,
20 2009, you forged check number 1064 in the amount of \$142.69
21 on Rodney Booker's account. You're pleading guilty because
22 you did it. Is that correct?

23 A. Yes, sir.

24 Q. And once again, Mr. Price, in connection with
25 indictment 2009-2697, distribution of cocaine, you're

1 telling me once again you're pleading guilty to this
2 because back on October 20, 2008, you distributed a
3 quantity of cocaine. Is that correct?

4 A. Yes, sir.

5 Q. All right and once again, Mr. Price, in connection
6 with indictment number 2009-2694, possession of cocaine
7 second, you're telling me back on July -- January 13, 2009,
8 you possessed unlawfully, knowingly a quantity of cocaine.
9 It was a second offense for you, right?

10 A. Yes, sir.

11 Q. All right, and finally once again, Mr. Price, in
12 connection with indictment 2009-2698, distribution once
13 again, back on December 17, 2008, you distributed once
14 again a quantity of cocaine. Is that correct?

15 A. Yes, sir.

16 Q. You're pleading guilty to all five of these charges
17 because you are guilty. Is that correct, Mr. Price?

18 A. Yes, sir.

19 THE COURT: All right, what are the plea negotiations
20 again, Solicitor? Just concurrent time? Is that basically
21 it?

22 MR. ANTHONY: Judge, yes, sir. The -- it's -- the
23 range, the range, I guess, is included in that. It's a one
24 to ten and concurrent on all of the charges.

25 THE COURT: Not, not to exceed ten years?

G. PRICE - EXAMINATION BY THE COURT

21

1 MR. ANTHONY: Yes, sir, Your Honor.

2 THE COURT: Okay.

3 MR. ANTHONY: Right. That's right, Judge.

4 THE COURT: Understand that.

5 Anything additional, Mr. Cheek, needs to be added to
6 the record in connection to any plea negotiations or any
7 recommendations?

8 MR. CHEEK: No, sir, Your Honor.

9 BY THE COURT:

10 Q. You still wish to continue and plead guilty, Mr.
11 Price?

12 A. Yes, sir.

13 Q. Now, sir, are you fully satisfied with the manner in
14 which your lawyer here, Mr. Cheek, the way he has advised
15 and represented you on these charges?

16 A. Yes, sir.

17 Q. Have you talked with him for as long and for as often
18 as you feel it necessary for him to properly represent you?

19 A. Yes, sir.

20 Q. Do you need any more time to talk to him?

21 A. No, sir.

22 Q. Have you understood your talks with him?

23 A. Yes, sir.

24 Q. Mr. Price, has Mr. Cheek done everything for you you
25 feel he should do or could do on your behalf in advising

1 and representing you on these charges?

2 A. Yes, sir.

3 Q. Has he done anything you feel he should not have done?

4 A. No, sir.

5 Q. Are you completely satisfied with his services?

6 A. Yes, sir.

7 Q. Any complaints against anyone at the Spartanburg
8 County Sheriff's Department?

9 A. No, sir.

10 Q. Any complaints against anyone working here in the
11 solicitor's office?

12 A. No, sir.

13 Q. Have you understood my questions?

14 A. Yes, sir.

15 Q. Is there anything you want to ask me about what I
16 discussed with you, anything at all?

17 A. No, sir.

18 Q. Mr. Price, you realize that you have a right to appeal
19 this guilty plea and whatever sentence I may impose upon
20 you, but if you're going to appeal, you need to file a
21 notice of intent to appeal within ten days of today's date.
22 You understand that, sir?

23 A. Yes, sir.

24 Q. Very well.

25 THE COURT: Solicitor, I'll be happy to hear about it.

1 MR. ANTHONY: Thank you, Your Honor. May it please
2 the court? I'll begin with the property offenses, Judge.
3 On December 2, 2009, Rodney Booker filed an identity theft
4 report with the sheriff's office stating that unknown
5 persons used his personal information to seek a fraudulent
6 checking account at Wachovia bank. He said his checkbook,
7 book had been stolen out of his car June that year.

8 Two of the forged checks were traced back to the
9 defendant. Check number 1079 for \$169 on December 15,
10 2009, was made out to Charter Cable. That had the
11 defendant's Charter Cable account number listed on the
12 check, Judge. It was determined from that number that the
13 account belongs to the defendant. And also check number
14 1064 for \$142 on December 12, 2009, were made out to
15 Ingle's -- was made out to Ingle's. The defendant was
16 identified on the store's video camera, Judge.

17 The state has not been able to get in touch with the
18 victim in this case, Judge, or at least, rather, Rodney
19 Booker, Judge.

20 As to the drug offenses, Judge, the ---

21 THE COURT: And let me add for the record. I see on
22 the sentencing sheet as to the two distributions, he's
23 entering this plea of guilty under *North Carolina vs.*
24 *Alford*. Sorry.

25 MR. ANTHONY: That's correct, Judge.

1 THE COURT: Go ahead, sir

2 MR. ANTHONY: On the manufacturing of crack cocaine as
3 indictment number 2694, this is October 20, 2008. The
4 defendant sold cocaine to a confidential informant at the
5 intersection of Highway 221 and Varner Road in Spartanburg
6 County. The confidential informant was provided with
7 recorded funds, searched pre-buy, and no contraband was
8 located. And post-buy the confidential informant had an
9 off-white rock substance that later tested positive as
10 cocaine. Confidential informant also had recording
11 equipment that recorded the defendant making the sale, and
12 the confidential informant later picked the defendant out
13 of a photo lineup.

14 As to, to indictment number 2698, this is December
15 17th of 2008. Defendant sold cocaine to confidential
16 informant at the intersection of Wells Road and Kelly Road
17 in Spartanburg County. Confidential informant was provided
18 recorded funds, searched pre-buy, and no contraband was
19 located. And post-buy, buy, the confidential informant had
20 an off-white rock substance that later tested positive as
21 cocaine. Confidential informant also had recording,
22 recording equipment that recorded the defendant making the
23 sale, and the confidential informant later picked the
24 defendant out of a photo lineup.

25 Finally as to the 2009-2694, possession of crack

1 cocaine, this is January 13th of 2009, Judge. Spartanburg
2 County SWAT executed a search warrant at Old Timber
3 Road in Spartanburg County. They forced entry and found
4 the defendant was the only individual inside. They
5 mirandized the defendant and asked him if there were any
6 drugs on the property, and he stated no. They searched the
7 apartment and found a clear plastic bag containing white
8 powder and another bag with an off-white rock substance
9 later tested as crack cocaine. The defendant then claimed
10 the drugs and gave a voluntary statement to that effect,
11 Judge.

12 THE COURT: How old were you back in 2008?

13 MR. ANTHONY: Must have been ---

14 THE COURT: You subtract how old you are now.

15 MR. ANTHONY: --- ten.

16 THE COURT: What, ten or something?

17 MR. ANTHONY: Ten, that's right, Judge.

18 THE COURT: How long was he gone, absconded? How long
19 was he living in Maryland before they finally caught up
20 with him?

21 MR. CHEEK: Seven years, Judge.

22 THE COURT: Seven years, okay, and his prior record
23 before, going back? Anything before 2008 or '9?

24 MR. ANTHONY: Judge, there are some -- everything goes
25 back before 2009, that's correct.

1 THE COURT: All right. That's okay.

2 What the solicitor told me, is that fairly accurate as
3 to how these matters unfolded, Mr. Price?

4 DEFENDANT: Yes, Your Honor.

5 THE COURT: All right.

6 You agree, Mr. Cheek?

7 MR. CHEEK: I do, Your Honor.

8 THE COURT: Very well, sir, I find that there is a
9 substantial factual basis for your plea, Mr. Price. I
10 further find your decision to plead guilty to be freely,
11 voluntarily, knowingly, and intelligently made. That
12 you've had advice of competent counsel whom you indicated
13 to me you're completely satisfied with. Therefore, I will
14 accept his plea.

15 Mr. Cheek, I'll be happy to hear from you, sir.

16 MR. CHEEK: Your Honor, we'd asked this court to take
17 into consideration that my client has done 446 days since
18 he signed waiver extradition papers out of the state of
19 Maryland.

20 THE COURT: That was very generous of him to do that
21 after several years, Mr. Cheek.

22 MR. CHEEK: Yes, sir, Your Honor, and I'd just bring
23 to the court's attention that he is offering these charges
24 under *Alford* for the reason that they happened so ---

25 THE COURT: He doesn't even remember them.

1 MR. CHEEK: He doesn't remember them, Your Honor.

2 THE COURT: How could he?

3 MR. CHEEK: But he's, but he's acknowledging he was
4 involved in some behaviors that ---

5 THE COURT: Yes.

6 MR. CHEEK: --- sounds like what the state has against
7 him. Your Honor, he has been gone for seven years.

8 We'd ask the court to take into consideration that
9 there was also some matters up in Greenville County. He
10 has gotten an order of transport. Judge Hill over in
11 Greenville County set a \$100,000 bond on him and required
12 home incarceration on the charges, bond over there. The
13 family's already made those arrangements for the bond, Your
14 Honor, and there is an order, and if I may approach, Your
15 Honor?

16 THE COURT: Yes, sir.

17 MR. CHEEK: Transport order requiring that he be held
18 in custody until whatever matters are resolved over here in
19 Spartanburg County, and then he's to be returned back to
20 Greenville County to release to home detention on the
21 Greenville County charges. We'd ask the court take all
22 that into consideration.

23 While he's been there, Your Honor, he's made contact
24 with people who work with programs over in Greenville.

25 Glenn McGee has also sent him a letter. It's been posted

1 to him, Your Honor, at the Greenville jail showing that
2 there are a number of jobs they're willing to help him get
3 to keep him going in the right direction.

4 He made a mistake, Your Honor. He ran. He probably
5 should not have ran. Should have faced up, but he's here
6 to face those charges today, Your Honor. We'd ask the
7 court to take into consideration that he is doing that.
8 We'd just ask the court for whatever mercy and leniency the
9 court can give within the range that the state has made for
10 a recommendation of concurrent sentence.

11 THE COURT: All right. Let me ask you this. Between
12 2009 when he took off for Maryland ---

13 MR. CHEEK: No drug offenses, Your Honor.

14 THE COURT: And is this the first time he's been
15 arrested and convicted of something in the last ten years
16 maybe? Help me out.

17 MR. CHEEK: Yes, sir, Your Honor. He's -- I can't
18 find anything ---

19 THE COURT: These charges in Greenville, do they date
20 back to 2008 and '9 also?

21 MR. CHEEK: Yes, sir, all back in that ---

22 THE COURT: Same sort of situation?

23 MR. CHEEK: Yes, sir.

24 THE COURT: Yes, sir?

25 MR. ANTHONY: Judge, I was just going to say that

1 there were some other drug charges in 2007, but it's all,
2 it's all before 2009.

3 THE COURT: Okay. That's fine. That's fine. What
4 sort of charges are pending on Mr. Price over in
5 Greenville?

6 MR. CHEEK: Your Honor, there's a murder charge
7 pending, but someone's already pled guilty to that.

8 THE COURT: He's already pled guilty?

9 MR. CHEEK: Someone else has.

10 THE COURT: Oh.

11 MR. CHEEK: Not my client. Someone has already pled
12 guilty to that. His attorney is telling him that she feels
13 confident, confident that when they get around to doing
14 what they've got to do in Greenville, those charges against
15 him are going to be dismissed. We're hoping for that, Your
16 Honor.

17 THE COURT: Why did Judge Hill set a \$100,000 bond
18 then?

19 MR. CHEEK: Because they were going to bring him back
20 over and he ran. He got to pay a price for it, Your Honor.

21 THE COURT: All right.

22 So, indictments, let's see.

23 (A PAUSE.)

24 MR. CHEEK: His mother and brother are present, Your
25 Honor. She indicates she does not wish to address the

1 court.

2 THE COURT: It was 400 and how many days, Mr. Cheek?

3 MR. CHEEK: 446 days, Your Honor.

4 THE COURT: 446?

5 MR. CHEEK: Yes, sir.

6 (A PAUSE.)

7 THE COURT: You have any idea what's the quantity that
8 was distributed? Was it typical of \$20, \$30 rock back in
9 those days? It's usually what it was.

10 MR. CHEEK: It was, Your Honor, \$20.

11 THE COURT: All right.

12 MR. ANTHONY: I defer to Mr. Cheek.

13 THE COURT: That's all right. I mean, you know, I
14 remember when it first came out, that's usually what it
15 was. The confidential informant usually ended up being the
16 second cousin or somebody typically.

17 (A PAUSE.)

18 SENTENCE OF THE COURT:

19 THE COURT: Very well, on indictments number
20 2015-2775, 2773, and 2009-2694, sentence is five years,
21 credit for time served. On indictments number 2009-2697
22 and 2698, distribution, sentence is seven years.
23 Everything is concurrent, credit for time served on all
24 sentences.

25 Mr. Price, you can't run away and expect to come back

1 and be treated any better than I've treated you. You
2 understand that, don't you?

3 DEFENDANT: Yes, sir.

4 THE COURT: I wish you the very best. Nothing
5 personal, but you can't go abscond like that and come back
6 and get a good deal. Good luck to you over in Greenville,
7 sir.

8 --- 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 PROVIDED TO ME BY MARYANN S. NEVERS AND INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR SPARTANBURG COUNTY, SOUTH CAROLINA, ON THE 4TH DAY OF AUGUST, 2015.

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

SEPTEMBER 23RD, 2016

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF)

GREGORY DANIEL PRICE #240729)

2016-CP-42- 2489

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

v.)

APPLICATION FOR

State of South Carolina)

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 Ridgeland Correctional Institution
2. Name and location of Court which imposed sentence Spartanburg County Courthouse in Spartanburg, S.C.
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009 GS 420 2694 Possession of Crack (d) 2015 GS 42 2773 - forgery
 - (b) 2009 GS 420 2697 Distribution of Cocaine (E) 2015 GS 42 2775 - forgery
 - (c) 2009 GS 420 2698 Distribution of Cocaine
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) August 4, 2015
 - (b) 7 yrs Non-Violent

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(c) *Defendant is to be given credit for time served pursuant to S. Code 24-1340 to be calculated and applied by the State Department of Correction*

6. Check whether a finding of guilty was made:

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

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

No

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

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

i. _____

ii. _____

iii. _____

(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) *Did not know i had a right to appeal after pleading guilty*
 (b) *was not advised by plea counsel to have a right to appeal*
 (c) _____

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

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 STATE DEPARTMENT OF CORRECTION

11. A) Plea Counsel made erroneous Prejudicial statement About Applicant to Judge Manning during Plea hearing, Stating that Mr. Price had been running for 7 yrs. Applicant was charged on 10/20/2008 and 12/17/2008 for distribution of COCAINE BASE. Mr. Price was arrested for these charges on 1-13-09 and made bond on these charges on 2-13-09. Applicant's case was called for hearing on January 2012 at which Mr. Price was not notified and a Failure to Appear was issued on February 8, 2012 for Applicant's arrest. Mr. Price was arrested on July 24, 2013 (A little over a year after f.t.a. was issued) by Howard County Maryland Police Department for unrelated charges. Applicant was held with out bond by H.C.P.D. and was notified that Spartanburg SC had a bench warrant for his arrest for a f.t.a. and he would be detained until after his Maryland case and until South Carolina authorities come get him. Applicant has remained in Police custody since 7/24/13. On 8/4/15 at Applicant's Plea hearing for f.t.a. and other charges Judge Manning seeing the date of the first distribution charge being 10/20/08 made a statement that "these charges got whiskers on them" at which Plea Counsel Mr. Cheeks stated to Judge Manning "Well any clients been running for 7 yrs your honor" (See transcript of Plea Hearing 8/4/2015) This statement was both, erroneous and prejudicial in affect and did lead to an unfair proceeding that would have went different had counsel not made such a blatantly false comment and unprofessional error. After sentencing at which Applicant received 7yrs, 7yrs, 5yrs, 5yrs, 5yrs ran concurrent Judge Manning stated to Mr. Price "you can't run for 7yrs and expect any better than what you got" (See transcript of Plea Hearing) However, Mr. Price did not run for 7yrs, a failure to appear was issued February 8, 2012 for his arrest. Mr. Price was arrested July 24, 2013 a little over a year after failure to appear was issued not 7yrs. Applicant was so prejudiced by Plea Counsel's statement that but for Counsel's erroneous incompetent comments the outcome of Plea hearing would have went different as indicated by Judge Mannings comments after sentencing "you can't run for 7yrs and expect any better than what you got" (See transcript)

11.B) ON 7/24/13 APPLICANT WAS ARRESTED BY HOWARD COUNTY MARYLAND POLICE DEPARTMENT FOR UNRELATED CHARGES. APPLICANT WAS NOTIFIED TO HAVE FAILURE TO APPEAR BENCH WARRANT AND OTHER OUTSTANDING WARRANTS FOR BOTH SPARTANBURG AND GREENVILLE SOUTH CAROLINA COUNTIES PER N.C.I.C. APPLICANT WAS DETAINED AT H.C.P.D. AND HELD WITHOUT BOND BY HOWARD COUNTY AUTHORITIES UNTIL FINAL DISPOSITION OF THEIR CASES AGAINST HIM ON 5/19/2014 RESULTED IN A DISMISSAL OF ALL CHARGES. THE SAME DAY 5/19/14 APPLICANT WAS SERVED A FUGITIVE WARRANT. ON 5/20/14 EXTRADITION HEARING WAS HELD AND APPLICANT WAIVED EXTRADITION SO SOUTH CAROLINA AUTHORITIES COULD COME PROMPTLY TRANSPORT HIM. ON 6/4/2014 GREENVILLE COUNTY AUTHORITIES PICKED APPLICANT UP FROM HOWARD COUNTY DETENTION CENTER IN MARYLAND AND TRANSPORTED APPLICANT TO GREENVILLE COUNTY DETENTION CENTER IN SOUTH CAROLINA WHERE APPLICANT REMAINED WITHOUT BOND AND HELD ON DETAIN FOR F.T.A. BENCH WARRANT AND OTHER CHARGES FROM SPARTANBURG. ON MAY 1, 2015 APPLICANT POSTED BOND FOR THE GREENVILLE CHARGES BUT REMAINED IN GREENVILLE COUNTY ON DETAINER UNTIL MAY 12, 2015 WHEN SPARTANBURG COUNTY AUTHORITIES TRANSPORTED HIM TO SPARTANBURG COUNTY DETENTION CENTER WHERE APPLICANT REMAINED UNTIL FINAL DISPOSITION OF HIS SPARTANBURG CASES ON 8-4-15 AT WHICH APPLICANT WAS SENTENCED TO 7yrs, 7yrs, 5yrs, 5yrs, 5yrs ALL RAN CONCURRENT. IT WAS ORDERED THAT APPLICANT RECEIVE CREDIT FOR JAIL TIME SERVED IN PRE-TRIAL DETENTION PURSUANT TO MANDATE S.C. CODE 24-13-40 HOWEVER, APPLICANT ONLY RECEIVED PARTIAL CREDIT OF 446 DAYS CREDIT DUE TO THE LACK OF PLEA COUNSEL'S INVESTIGATION AND OVERALL INEFFECTIVENESS IN PRESENTING TO THE COURT THAT APPLICANT HAS BEEN IN PRE-TRIAL DETENTION SINCE JULY 24, 2013 AND "HELD" ON "DETAINERS" UNTIL AUGUST 14, 2015 HEARING DATE AND THUS IS ENTITLED TO FULL CREDITS OF APPROXIMATELY 740 DAYS JAIL CREDIT FOR TIME SERVED IN PRE-TRIAL DETENTION FROM 7/24/13 TO 8/4/15.

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11.C) PLEA COUNSEL WAS AWARE OF STATES RECOMMENDATION OF 0-10yr PLEA OFFER. HOWEVER PLEA COUNSEL NEVER RELAYED PLEA OFFER TO APPLICANT AND HAD APPLICANT TO SIGN A 0-15 yr PLEA AND FAILED TO OBJECT WHEN STATE TOLD JUDGE MANNING THAT THE SOLICITOR'S OFFICE HAD RECOMMENDED 1-10yr SENTENCE AT PLEA HEARING (SEE TRANSCRIPT OF PLEA HEARING) PLEA COUNSEL WAS INEFFECTIVE IN THE PLEA NEGOTIATIONS BY NOT RELAYING PLEA OFFER TO APPLICANT AND BY NOT OBJECTING WHEN STATE MADE KNOWN TO THE COURT OF STATES RECOMMENDATION OF 1-10 yr PLEA OFFER.

11.D) PLEA COUNSEL UNDERSTOOD THAT APPLICANT NEVER RECEIVED HIS RULE 5 (MOTION OF DISCOVERY) AND BUT FOR THIS APPLICANT WOULD NOT HAVE PLEADED GUILTY. APPLICANT FILED HIS OWN "HICKS" MOTION FOR A SPEEDY TRIAL AS WELL AS A "BRADY" MOTION FOR FULL DISCLOSURE YET APPLICANT DID NOT RECEIVE AND DISCLOSURE OF REQUESTED DISCOVERY MATERIALS AND WAS THUS HINDERED FROM PREPARING FOR TRIAL. PLEA COUNSEL ADVISED APPLICANT THAT HE HAD NO OTHER RECOURSE BUT PLEAD BECAUSE THE STATE WASN'T PLAYING FAIR BY NOT PROVIDING DISCOVERY. WITH THIS BEING THE ADVICE OF MR. CHECKS APPLICANT THOUGHT AND FELT IT WAS THE ONLY WAY TO GO TO AVOID BEING RAILROADED BY BEING DENIED DUE PROCESS. PLEA COUNSEL FAILED TO EFFECTIVELY REPRESENT APPLICANT BY NOT RELAYING THIS DENIAL OF DUE PROCESS TO JUDGE MANNING IN MEDIATION OF SENTENCING AS TO WHY APPLICANT TOOK "ALFORD" PLEA OR DURING STATES PRESENTATION OF FACTS SURROUNDING APPLICANTS CASE MR. CHECKS NEVER ONCE OBJECTED TO INFORMATION PRESENTED BY THE STATE TO THE COURT THAT WAS NOT GIVEN TO APPLICANT IN DISCOVERY. PLEA COUNSEL MR. CHECKS OVERALL PERFORMANCE FELL WELL BELOW PROFESSIONAL NORMS AND BUT FOR HIS INCOMPETENCE AND SELFISH AMBITION THE OUTCOME OF PLEA HEARING WOULD HAVE BEEN DIFFERENT.

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- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
 (b) DENIAL OF DUE PROCESS
 (c) _____

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

- (a) SEE ATTACHED (d) SEE ATTACHED
 (b) SEE ATTACHED
 (c) SEE ATTACHED 3 PAGES

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

- (a) any petition in a State Court under South Carolina Law? _____
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
 (d) any other petitions, motions or applications in this or any other Court? _____

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. _____

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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. _____

(h) 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) INEFFECTIVE ASSISTANCE OF COUNSEL - first time filing P.C.R.

(b) DENIAL of DUE PROCESS - first time filing P.C.R.

(c) _____

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

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SPRINGFIELD COUNTY
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- (a) your arraignment and plea? ✓
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
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. JAMES CHECKS SPARTANBURG COUNTY PUBLIC DEFENDER OFFICE
- ii. ROGER POOLE SPARTANBURG COUNTY PUBLIC DEFENDER OFFICE
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. JAMES CHECKS PLEA HEARING AUGUST 4, 2015
- ii. ROGER POOLE PRELIMINARY HEARING (FGERY CHARGES)
- iii. _____
19. State clearly the relief you seek in filing this application:
TIME SERVED CREDITS FOR ALL JAIL TIME SERVED IN PRE-TRIAL DETENTION
FROM 7/24/2013 TO 8/14/2015 PURSUANT TO MANDATE S.C. CODE 24-13-40
20. Are you now under sentence from any other court that you have not challenged?
NO

RESERVE RIGHT TO AMEND PETITION

CLERK OF COURT
 SPARTANBURG COUNTY
 2016 JUL -6 AM 9:51
 M. HOPE BLACKLEY

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STATE OF SOUTH CAROLINA

)

)

VERIFICATION

County of

)

Georgy PRICE
 I, Georgy PRICE, 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.

Georgy PRICE

SWORN to and subscribed before me this 30
 day of June, 2016.

Virginia Robinson (L.S.)
 Notary Public

My Commission Expires: May 20, 2021

CLERK OF COURT
 SPARTANBURG COUNTY
 2016 JUL -6 AM 9:51
 M. HOPE BLACKLEY

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

I, GREGORY PRICE, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this

30 day of June, 2016.

Virginia Robinson
Notary Public

My Commission Expires: May 20, 2021

SPARTANBURG COUNTY
2016 JUL -6 AM 9:51
M. HOPE BLACKLEY

LEGAL MAIL

MADAM CLERK,

PLEASE Clock Stamp and date
P.C.R. Application and forward
me a copy for my Records. Thanks

With Kind Regards.

GREGORY D PRICE



JUNE, 30 2016

CLERK
SPARTANBURG COUNTY
2016 JUL -6 AM 9:51
M. HOPE BLACKLEY

COUNTY OF

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

GREGORY D. PRICE Plaintiff(s)

vs.

STATE OF SOUTH CAROLINA

Defendant(s)

2016-CP-42-2489

Submitted By: GREGORY D PRICE

Address: Ridgeland C.I. B88
PO Box 2039
Ridgeland, SC 29936

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

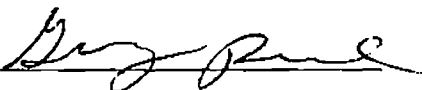
*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|---|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case =
20 ____ -NI- ____ - ____ - ____
☐ Notice File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault Slander Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☒ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Workers' Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex/Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of-State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (510) | | |

Submitting Party Signature:



Date: JUNE 30, 2016

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

45

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

CLERK OF COURT
Spartanburg County
2016 JUL -6 AM 9:51
B. HOPKINS BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	SEVENTH JUDICIAL CIRCUIT
	)	
Gregory Daniel Price, #240729,	)	2016-CP-42-2489
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed on July 6, 2016, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Spartanburg County. Applicant was indicted at the May 2009 term of the Grand Jury for Spartanburg County for possession of cocaine base (2009-GS-42-2694) and two counts of distribution of cocaine base (2009-GS-42-2697, -2698). Subsequently, Applicant was arrested for two counts of forgery, value less than \$5,000 (2015-GS-42-2773, -2775).¹ James A. Cheek, Esquire represented Applicant. Grady B. Anthony, Esquire, of the Seventh Circuit Solicitor's Office prosecuted the case. On August 4, 2015, Applicant waived presentment to a grand jury for the forgery charges and pled guilty to possession of cocaine base and both counts of forgery. He also pled *nolo contendere* pursuant to North Carolina v. Alford² to both counts of distribution of cocaine base. The Honorable L. Casey Manning sentenced Applicant to imprisonment for a term of five years for both counts of forgery and possession of cocaine base and seven years for distribution of cocaine base. The sentences

¹ Applicant was also charged with financial identity fraud, which was dismissed in exchange for Applicant's plea.

² North Carolina v. Alford, 400 U.S. 25 (1970).

were to be served concurrently with credit for time served. Applicant did not appeal his guilty pleas or sentences.

Attached herewith and incorporated herein by reference are the records of the Spartanburg County Clerk of Court regarding the subject convictions, the transcript from Applicant's plea, and Applicant's records for the Department of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

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

1. Ineffective Assistance of Counsel

- a. "Plea counsel made erroneous prejudicial statement about Applicant to Judge Manning, stating that Applicant had been running for 7 years."
- b. Applicant was arrested for charges on in late 2008 and indicted at the May 2009 term. Applicant's failed to appear when his case was called for hearing in January 2012. Subsequently, Applicant was arrested in Maryland for unrelated charges on July 24, 2013. Applicant was held in custody in Maryland until charges were disposed and eventually transported back to Spartanburg to resolve his pending charges.
- c. "Applicant only received partial credit for 446 days credit due to the lack of plea counsel's investigation and overall ineffectiveness in presenting to the Court that Applicant has been in pre-trial detention since July 24, 2013 and held on detainers until August 4, 2015.
- d. "Plea counsel was aware of State's recommendation of 0-10 year plea offer. However, plea counsel never relayed plea offer to Applicant[.]"
- e. Plea counsel understood that Applicant never received his Rule 5 (motion for discovery) and

but for this, Applicant would not have plead guilty. [] Plea counsel failed to effectively represent Applicant by not relaying this denial of due process to Judge Manning in [mitigation] of sentencing.”

2. “Denial of Due Process”

Attached herewith and incorporated herein by reference are the records of the Spartanburg County Clerk of Court regarding the subject convictions, the transcript from Applicant’s plea, and Applicant’s records for the Department of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

III.

Applicant claims ineffective assistance of counsel in his application. Respondent contends Applicant's counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, Applicant must prove that “counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable

professional judgment. Strickland, 80 L.Ed.2d 674. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

Applicant also alleges a denial of due process of law. The Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon the Applicant to

make at least a *prima facie* showing, which would entitle him to relief before an evidentiary hearing will be scheduled and held. 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). Since the Applicant has failed to make even a *prima facie* showing that his due process and other constitutional rights were violated, the Respondent would submit that this allegation should be summarily dismissed for failing to specifically set forth the grounds upon which the application is based.

V.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code § 17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VI.

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

(signature block to follow)

VII.

WHEREFORE, having made its Return, Respondent requests that a hearing be held on the claims of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

VALERIE GARCIA GIOVANOLI
Assistant Attorney General

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

By: 
ATTORNEYS FOR RESPONDENT

May 1, 2017

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
	)	
	)	2016-CP-42-2489
GREGORY DANIEL PRICE, #240729,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

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

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

DATED this 1st day of May, 2017.



 Ashley Haworth, Paralegal
 For Respondent

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
 COUNTY OF SPARTANBURG) 2016-CP-42-02489
)
)
)
 GREGORY DANIEL PRICE)
) APPLICANT)
) vs.) TRANSCRIPT OF RECORD
)
 STATE OF SOUTH CAROLINA)
) RESPONDENT)

June 26, 2017
 Spartanburg, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILWELL, Judge.

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

SUSANNAH C. ROSS, ESQ.
 Attorney for the Applicant

JOHNNY E. JAMES, ESQ.
 Attorney for the Respondent

APRIL HERRON
 Official Court Reporter

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1 MR. JAMES: If it may, may it please the Court?

2 THE COURT: Yes, sir.

3 MR. JAMES: This is the case of Gregory D. Price
4 vs. State of South Carolina. Docket No.

5 2016-CP-42-2489. Mr. Price was indicted in May of
6 2009 for one count of possession of cocaine base and
7 two counts of distribution of cocaine base.

8 Mr. Price was further charged for two counts of
9 forgery, valued greater than \$5,000. Your Honor, to
10 be clear, on the face of those two forgery
11 indictments it says greater than \$10,000. But the
12 sentencing sheets used the retired CDR code and the
13 greater than \$5,000. And the events pertinent
14 occurred in 2009 before the codes were updated.

15 THE COURT: Okay.

16 MR. JAMES: He was represented on those charges
17 by James A Cheek, Esquire. He entered pleas on
18 August 4th, 2015. The Applicant pled guilty to
19 possession of cocaine base as indicted. He pled to
20 two counts of distribution pursuant to Alford. And
21 he waived presentment and pled guilty on the forgery
22 charges.

23 Additionally, Your Honor, it appears that a
24 number of other charges against the Applicant in this
25 circuit were dropped at the time of his plea,

1 including one count of possession of cocaine, two
2 counts of possession of controlled substance and one
3 count of financial identify fraud. He took the
4 State's recommendation of 1 to 10 years, concurrent
5 on each charge. The Honorable L. Casey Manning
6 sentenced Mr. Price to a sum total of seven years.
7 This PCR was filed July 6, 2016. Mr. Price is
8 present, he is represented by Susannah C. Ross,
9 Esquire.

10 Your Honor, The State is ready. However, it is
11 my understanding that counsel for The Applicant may
12 wish to make a motion.

13 THE COURT: Yes, ma'am.

14 MS. ROSS: Judge, on this one as well, we'd move
15 for a continuance. I believe I can -- there's an
16 issue of credit for time served that I think we can
17 adjust. I had asked the Attorney General to put this
18 on the docket earlier because it will become mute in
19 four months. Because I believe Mr. Price could max
20 out his sentence. So, at this time, we'd move for a
21 continuance so I can address that one issue that I
22 may be able to take care of.

23 THE COURT: Okay. Again, in chambers we talked
24 about that one issue is credit for time served. And
25 you still don't have the information from the

1 Maryland Department of Corrections?

2 MS. ROSS: I haven't gotten that information,
3 Judge. And I think it's something that can be taken
4 care of outside of the PCR realm and would be better
5 served in that way. So, move to continue to see if I
6 can take care of that.

7 THE COURT: All right, Mr. James.

8 MR. JAMES: Your Honor, opposing counsel did
9 specifically request that this case be put on this
10 roster, as I am informed by my colleague, Valerie
11 Giovanoli. Your Honor, I believe that The State
12 would move to dismiss the allegation with respect to
13 time served as not proper for PCR and is more
14 appropriately adjudicated in the Court of General
15 Sessions. And, Your Honor, my understanding is that
16 The Solicitor's Office and defense counsel have
17 discussed this somewhat and are amenable to handling
18 it in General Sessions.

19 Your Honor, there are some other allegations
20 raised in the application that are not subject to a
21 motion to dismiss. Specifically, in effective
22 assistance of counsel for erroneously stating the
23 plea offer. Some things about discovery, denial of
24 due process. Your Honor, I believe that the most
25 appropriate court of action would be either to

1 dismiss this application or for Ms. Ross to withdraw
2 it and pursue the relief that her Applicant seeks in
3 General Sessions.

4 THE COURT: Why don't you dismiss it pursuant to
5 40-J?

6 MS. ROSS: Well, Judge, I was erroneous, I had
7 thought Mr. Price's only real issue was the credit
8 for time served.

9 THE COURT: Right.

10 MS. ROSS: He is now telling me, and I haven't
11 discussed this matter with him thoroughly, that his
12 other issues he believes are meritorious and he would
13 like those heard as well. So, he would not like
14 those other ineffective assistance of counsel issues
15 be dismissed at this time.

16 THE COURT: You say he's going to max out in
17 four months?

18 MS. ROSS: So, if he'd gotten the credit for the
19 270 days that are at issue, he would have maxed out
20 in four months. As it is now he's maxing out in
21 April of 2018.

22 THE COURT: Okay. So, why don't you -- why
23 don't you consider doing this. Why don't you
24 consider 40-J'ing it? Takes it off the active
25 docket. And he can put it back on the docket and it

1 doesn't effect any statue of limitations issues. And
2 if, in fact, you resolve the relevant or salient
3 issue in General Sessions Court, then you will have
4 gotten the resolution that you seek. If you haven't,
5 then you can refile it or reinstate it.

6 MS. ROSS: I think he doesn't want to wait. If
7 he refiles it will be back in the line, essentially.
8 So, it would be out maybe six or eight months, at
9 least. So, that's the only concern about going that
10 route.

11 THE COURT: Okay.

12 Yes, sir.

13 MR. JAMES: Your Honor, if the Applicant wishes
14 to proceed forward with this PCR today, The State is
15 ready and capable.

16 THE COURT: Okay. Do you want to go forward on
17 those allegations today?

18 MS. ROSS: I need a recess to discuss them with
19 Mr. Price. We have not discussed those other
20 allegations.

21 THE COURT: Okay. All right. Why don't y'all
22 have a quick talk about it. And decide whether you
23 want to go forward with those today. I'm inclined to
24 go forward with just those remaining allegations
25 unless you tell me as an officer of the court that

1 there's some impediment in doing so.

2 MS. ROSS: All right. Let me just talk to my
3 client because I'm not prepared at this time to go
4 forward with them. But if I talk to him that
5 could --

6 THE COURT: Okay, good enough.

7 (WHEREUPON, a short break was taken.)

8 THE COURT: Mr. James, I think you've already
9 given me the procedural history in this case, if I'm
10 not mistaken. So, I believe, perhaps, all I need to
11 do is hear from Ms. Ross and what her client wishes
12 to do at this point.

13 MS. ROSS: Judge, we'd like to proceed with the
14 PCR hearing. The allegations are ineffective
15 assistance of counsel, failure to research and get
16 Mr. Price credit for 295 additional days that he
17 served in Maryland under a hold from Spartanburg
18 County. Also, failure to relay a recommendation of
19 The State and failure to give Mr. Price a copy of his
20 discovery for his review.

21 THE COURT: Okay. All right.

22 MS. ROSS: So, at this point we call Gregory
23 Price.

24 THE COURT: Okay, Mr. Price, if you'd come
25 forward please, sir. If you'd come forward. There's

GREGORY PRICE-DIRECT BY MS. ROSS

1 a Bible here and to the extent that you're capable,
2 place your left hand on the Bible and raise your
3 right hand.

4 GREGORY PRICE, after being duly sworn,
5 testified as follows:

6 THE COURT: Okay, take a seat please, sir and
7 state your full name for the record.

8 THE WITNESS: Gregory Dean Price.

9 DIRECT EXAMINATION

10 BY MS. ROSS:

11 Q Okay, Mr. Price, you're going forward with
12 post-conviction relief. You realize the remedy in this
13 case will be you will be put back into the position you
14 were in before your guilty plea?

15 A Yes, ma'am.

16 Q All right. And facing all of that time could
17 have been run consecutive in this case, you understand
18 that?

19 A Yes, ma'am.

20 Q Okay. And how do you wish to proceed?

21 A I wish to proceed with my PCR hearing, ma'am.

22 Q Okay. You've alleged ineffective assistance of
23 counsel. Can you tell The Court what those allegations
24 are?

25 A Well, I never received -- denial of due process,

GREGORY PRICE-DIRECT BY MS. ROSS

1 I never received my discovery in the case. So, I wasn't
2 able to adequately prepare for trial. And I wanted to go
3 to trial but I filed a Brady motion to receive my
4 discovery. Also a Hicks motion for a speedy trial. But I
5 never received the discovery. So, I was -- basically, I
6 was forced to have to plea.

7 Q Okay. And you pled under Alford. Do you
8 understand what Alford means? Alford v. North Carolina?
9 One of your guilty pleas, I believe, was an Alford plea;
10 is that correct?

11 A Yes, ma'am.

12 Q Do you understand what that is?

13 A Alford plea is basically that I'm pleading
14 guilty but I'm actually saying I'm not guilty but I could
15 be found guilty.

16 Q All right. So, you're being given the benefit
17 of the plea and the plea offer and taking responsibility
18 for the charge regardless of whether you're actually
19 guilty or not?

20 A Yeah.

21 Q Okay. And that was on the drug charge that you
22 pled on Alford, correct?

23 A Yes.

24 Q And then -- and you're saying that you had no
25 opportunity to thoroughly review the discovery to figure

GREGORY PRICE-DIRECT BY MS. ROSS

1 out what it would prove against you?

2 A Yes, ma'am.

3 Q Okay. Now, also you said something about
4 failure of you counsel to relay The State's recommendation
5 to you?

6 A Yes.

7 Q What was that about?

8 A I was -- I had -- I signed the 15 year open
9 plea. And The State recommendation was only 1 to ten
10 year. But I only found that out when I came to my plea
11 hearing. When Judge Manning asked The State what was
12 their recommendation?

13 And they said, 1 to 10 years, all run
14 concurrent for all the charges.

15 But I was -- I was made to sign -- I signed
16 a plea of zero to 15 years.

17 Q Okay. And what was the prejudice from that
18 recommendation against you? What is the problem of a
19 recommendation of less than the max of 15?

20 A Because I -- really, it's a five year difference
21 in which I received seven years of the 15. But maybe if I
22 would have signed a 10 year plea, I would have received
23 five years or maybe less than that. So, I believe that if
24 that plea was relayed to me or not and I signed it, I
25 could have received the benefit out of that plea of

GREGORY PRICE-DIRECT BY MS. ROSS

1 receiving lesser time.

2 Q Okay. So, you think that if this had just been
3 an opened plea, just straight up, The Judge might have
4 given you less than the 7 years but the 10 years
5 recommendation is set kind of high mark where The Judge
6 followed it?

7 A Yes. So, the high end, basically the time off
8 of the high end of the 15 years. Where he would have just
9 had the high end of the 10 years and he could have gave me
10 lesser time. I mean, could have got a suspended sentence
11 or even less, you know, or probation.

12 Q Okay. I'm showing opposing counsel a number of
13 sheets that you handed to me relating to your Maryland
14 charges. Is that okay with you?

15 A Yeah.

16 Q What do they show? When was your arrest date on
17 the Maryland charges?

18 A I was arrested July the 24th, 2013. I went to
19 court -- well the charges was dismissed against me. And I
20 was held -- I was held on detainer. I was held on
21 detainer with a bench warrant from the beginning. When I
22 first got arrested.

23 Q Okay.

24 A And I wasn't able to receive a bond because of
25 the bench warrant that Spartanburg had against me. So --

GREGORY PRICE-DIRECT BY MS. ROSS

1 and Greenville County. So, I went from -- from the
2 charges being dismissed in Maryland to going to
3 Spartanburg. And all those charges in each county was
4 dismissed and I was found not guilty in Greenville.

5 Q Uh-huh.

6 A And the last charge was the Spartanburg charge.
7 Which I was still -- I was incarcerated the whole time.
8 So, I should have received credit from July -- July 24th
9 when I was locked up until August 4th, 2015 when I went to
10 my hearing.

11 Q Okay. So, let's clarify a little bit. The
12 Statute 24-13-40 says that you can get credit for any time
13 that there's a detainer on you in other jurisdictions?

14 A Yes.

15 Q And there's an exception if you're doing time on
16 other sentences. In Maryland, in Greenville, were doing
17 time on other sentences?

18 A Yes but those charges were dismissed.

19 Q Okay.

20 A Being that those charges were dismissed, if
21 you're doing time, pre-trial detention, no matter what
22 jurisdiction you're in, you're to receive the credit for
23 that time served.

24 Q Okay. And the distribution charge from
25 Spartanburg, my understanding from the warrant is it

GREGORY PRICE-DIRECT BY MS. ROSS

1 happened -- you were served the warrant in 2009, right?

2 A I was served the warrant in 2009 but the charge
3 went back to 2008.

4 Q Okay. And then a bench warrant was issued, was
5 it February 9th of 2012?

6 A Yeah, the bench warrant was issued February the
7 9th. I was out on bond for the charge -- for Spartanburg,
8 for the drug charge. And a bench warrant was issued where
9 I had a failure to appear for February -- February of
10 2012.

11 Q Okay.

12 A And I was arrested July 2013, a little over a
13 year after the bench warrant was issued. So, it wasn't
14 actually, seven years. But --

15 Q Okay, wait just a second. Is this a copy of the
16 bench warrant? Or did you give me this saying that was a
17 copy of the bench warrant from Spartanburg?

18 A Yes, ma'am.

19 Q Would you like me to let The Judge look at them,
20 put them into evidence?

21 A Yes, ma'am.

22 THE COURT: Let me ask you a question, and I
23 maybe operating under a misapprehension, I thought
24 that with respect to the time served issue, that that
25 was going to be held in General Sessions Court and

GREGORY PRICE-DIRECT BY MS. ROSS

1 not in the PCR Application today?

2 MS. ROSS: Well, when I went and talked to him
3 about it --

4 THE COURT: Yeah.

5 MS. ROSS: He's going to roll it under a
6 ineffective assistance of counsel --

7 THE COURT: Okay, I gotcha.

8 MS. ROSS: -- for failing --

9 THE COURT: Okay.

10 MS. ROSS: So, I thought we could address it
11 here and just take care of it.

12 THE COURT: Okay.

13 MS. ROSS: Okay.

14 BY MS. ROSS:

15 Q Is that your understanding? Would you like to
16 address it as an ineffective assistance of counsel issue?

17 A Yes, ma'am. Because I feel that if the time was
18 investigated as far as how long I was locked up from
19 county to county, that I would have received that credit.
20 If it was relayed to The Judge at the time.

21 Q Okay.

22 A And he would give me credit -- for full credit
23 for 740 days that I was locked up from July of 2013 to
24 August of 2015, instead of giving me partial credit of 446
25 days that was just relayed from when I got back to -- was

GREGORY PRICE-DIRECT BY MS. ROSS

1 actually extradited to South Carolina.

2 Q Now, did you lawyer advise you that you would
3 get credit for time served when you entered this guilty
4 plea?

5 A Yes.

6 Q Would you have entered the guilty plea but for
7 your lawyer advising you that you would get credit for
8 time served?

9 A No.

10 Q Okay.

11 (WHEREUPON, Applicant's Exhibit No. 1 was marked
12 for identification only.)

13 MS. ROSS: And I'd offer this into evidence as
14 Applicant's Exhibit 1, the bench warrant from
15 Maryland.

16 MR. JAMES: Without objection.

17 THE COURT: All right, without objection, the
18 same is admitted.

19 (WHEREUPON, Applicant's Exhibit No. 1 was
20 admitted into evidence.)

21 THE COURT: How much time is it? Is the
22 additional time?

23 MS. ROSS: 295 days.

24 THE COURT: 295 days?

25 MS. ROSS: Yes, sir.

GREGORY PRICE-DIRECT BY MS. ROSS

1 THE COURT: Let me ask you this, Mr. James, does
2 The State have any objection to giving him credit for
3 that time served? You don't have to go into any
4 fancy elaboration, just a yes or no is sufficient.

5 MR. JAMES: Yes.

6 THE COURT: Okay, good enough.

7 You may continue, Ms. Ross.

8 MS. ROSS: Okay.

9 BY MS. ROSS:

10 Q So, these -- now, when were you made aware of
11 these bench warrants against you from Spartanburg County?

12 A When I was arrested in Maryland, they told me
13 that I had bench warrants from South Carolina. So, they
14 couldn't give me a bond. And that's when I was
15 transferred to Howard County.

16 Q Okay. And what is this sheet that I'm showing
17 to you, what's the relevance of this sheet?

18 A That's -- they gave me this when I was arrested.
19 It was a statement of charges.

20 Q Okay.

21 A From the date that I was--

22 Q Does it show your arrest date?

23 A Yes.

24 Q In Howard County, Maryland?

25 A Yes, ma'am.

GREGORY PRICE-DIRECT BY MS. ROSS

1 Q And what is that date?

2 A 7/24/2013.

3 Q All right. And it shows the charges against you
4 up there in Maryland?

5 A Yes.

6 Q And what happened with those charges?

7 A Those charges was dismissed.

8 Q All the charges were dismissed?

9 A All the charges was null pros?

10 Q So, you served no -- you got no Maryland credit
11 for the time you served in Maryland?

12 A No, I didn't.

13 MS. ROSS: I'd offer this as Applicant's Exhibit

14 2.

15 MR. JAMES: Without objection.

16 THE COURT: Okay, the same is admitted.

17 (WHEREUPON, Applicant's Exhibit No. 2 was marked
18 for identification and received into evidence.)

19 BY MS. ROSS:

20 Q Okay. Now, you handed me two additional sheets,
21 what do they show?

22 A That shows the date that the case was null pros
23 against me.

24 Q Okay.

25 A It also shows the date that. . .

GREGORY PRICE-DIRECT BY MS. ROSS

1 Q Okay. And what was that date that it was null
2 prosed?

3 A 5/19/2014.

4 MS. ROSS: All right. I would offer this as
5 Applicant's Exhibit No. 3.

6 MR. JAMES: Without objection.

7 THE COURT: All right, so admitted.

8 (WHEREUPON, Applicant's Exhibit No. 3 was marked
9 for identification and received into evidence.)

10 MS. ROSS: Judge, I can hand these to you if
11 you'd like to see those.

12 THE COURT: Sure, thank you.

13 BY MS. ROSS:

14 Q So, all your charges in Maryland were dismissed,
15 then what happened?

16 A I was extradited to Greenville County.

17 Q Okay. And that was in June of 2014, right?

18 A Yes, it was June 2nd, 2014.

19 Q Okay. And then there you had a charge and what
20 happened with that charge? The Greenville charge?

21 A I went to trial, I was found not guilty at
22 trial.

23 Q Okay. Then you bonded out on that charge as
24 well, didn't you?

25 A Pardon me. Before I went to trial I bonded on

GREGORY PRICE-DIRECT BY MS. ROSS

1 the charge. And Spartanburg came and picked me up. I did
2 three months in Spartanburg and went to my hearing. And I
3 received the 7 years. When I went to Kirkland, the month
4 after, the September of 2015, I went back to Greenville
5 County for trial. And I was at trial from the 8th to the
6 10th. On the 10th I was found not guilty at trial. And I
7 was sent back to Kirkland to serve time on the Spartanburg
8 charges, so.

9 Q So, you have -- a bench warrant was issued in
10 2012 and you have been in jail since July 24th, 2013
11 nonstop?

12 A Yes.

13 Q You were never released from jail?

14 A Never released.

15 Q And the charges that -- all that time ended up
16 with this charge from Spartanburg? The Greenville and
17 Maryland charges were dismissed?

18 A Yes. Because when I posted bond in Greenville
19 they wouldn't release me because I had the bench warrant
20 from Spartanburg still following me from Maryland. So, I
21 had posted a bond but the Spartanburg came and picked me
22 up. And if I would have received probation or the charge
23 dismissed from Spartanburg, than I would have been out on
24 house arrest for Greenville.

25 Q And why were you told that you could not get a

GREGORY PRICE-DIRECT BY MS. ROSS

1 bond in Maryland?

2 A Because I had the detainment from Spartanburg
3 and Greenville County.

4 Q Okay. Is there anything else that you would
5 like to add to your application and your hearing?

6 A Just it was some statements that was made by my
7 counsel as far as I was running for seven -- I had been
8 running for seven years. Which that was an erroneous
9 statement. It was wrong and it wasn't based on facts.
10 And the seven years was just how old the charge was, not
11 that I was running for seven years. Because the bench
12 warrant was issued in 2012, I was arrested 2013. Which is
13 a little over a year after the bench warrant was issued,
14 not seven years. It just took that amount of time for me
15 to get into court.

16 But those statements was also The Judge,
17 Judge Manning, actually said after he sentenced me that I
18 couldn't run for this amount of time and expect any better
19 than what I got. Which he sentenced me to seven years
20 thinking that I had been running for a long time. I was
21 actually out on bond from when the charges was first
22 issued on me. And I was arrested in 2013. The bench
23 warrant was issued in 2012. So, that's only a little over
24 a year if they was saying that I had went to court in
25 seven years but it was actually just over a year.

GREGORY PRICE-CROSS BY MR. JAMES

1 Q Okay.

2 All right, I've got nothing further, if you
3 have nothing to add.

4 THE COURT: All right, Mr. James.

5 CROSS-EXAMINATION

6 BY MR. JAMES:

7 Q Good morning, Mr. Price?

8 A Good morning.

9 Q You were arrested in Maryland on Maryland
10 charges, correct.

11 A I was arrested in Maryland, yes.

12 Q And when you were arrested in Maryland it was
13 because you were facing charges in Maryland?

14 A Yes.

15 Q Okay. It is accurate to say that you were
16 arrested on July 24th, 2013?

17 A Yes.

18 Q Prior to your arrest, what were you doing in
19 Maryland?

20 A I was visiting.

21 Q Visiting?

22 A Yes.

23 Q Do you have family up there?

24 A Yes.

25 Q Friends?

GREGORY PRICE-CROSS BY MR. JAMES

1 A Yes.

2 Q Are you originally from Maryland?

3 A Yes, I'm originally from Maryland. I was born
4 in Maryland.

5 Q You were out on bond on your South Carolina
6 charges, correct?

7 A Yes.

8 Q And you went to Maryland?

9 A I went to Maryland in 2012.

10 Q Did you receive permission to go to Maryland?

11 A No.

12 Q Do you recall signing paperwork when you bonded
13 out on your South Carolina charges?

14 A I remember signing paperwork. I can't actually
15 recall what was on it.

16 Q Would it surprise you if I informed you that a
17 standard term of conditions for making bond is not to
18 leave the state?

19 A (There was no response.)

20 Q Would that surprise you, sir?

21 A I don't know.

22 Q All right. We'll go back forward. You were
23 arrested in Maryland on Maryland charges, what were those
24 charges again?

25 A It was armed robbery, armed robbery, attempted

GREGORY PRICE-CROSS BY MR. JAMES

1 armed robbery and attempted murder.

2 Q And you were acquitted on those charges on May
3 19th, 2014?

4 A Yes.

5 Q And that same day you were also served with
6 fugitive warrant?

7 A Yes.

8 Q You then waived extradition the following day;
9 is that correct?

10 A Yes.

11 Q And you were transported back to South Carolina
12 on June 4th, 2014; is that correct?

13 A Yes.

14 Q Don't hesitate to correct me if I'm wrong.

15 A Yes, it was either June 4th or June 2nd, it was
16 one of the two. I think it was June the 2nd.

17 MS. ROSS: I think you got to Greenville

18 June 14th looking at my file.

19 BY MR. JAMES:

20 Q So, let's go over some general issues,
21 Mr. Price. How much many times did you meet with your
22 attorney prior to your plea?

23 A I met with my attorney once before -- once -- no
24 twice, twice. He came -- he came on a Saturday. He came
25 on a Saturday. And then he came again, I believe, on the

GREGORY PRICE-CROSS BY MR. JAMES

1 day before I went to my plea, maybe Monday. It was like
2 two days and he came to see me.

3 Q Do you recall reviewing discovery with your
4 attorney?

5 A I never reviewed discovery. That's something
6 that I asked that something I asked Mr. Cheek's about. I
7 asked him for my discovery. And I showed him where I had
8 filed a Brady motion to receive my discovery. Because
9 before he was representing me, it was Roger Poole and he
10 never would respond to me. And when Mr. Cheek's finally
11 came and started seeing me, I explained to him that I
12 never received my discovery. That I put in a Brady motion
13 to get some type of evidence on my case and I haven't
14 received anything. Which he told me that -- he told me
15 that he -- him and Judge Manning went to school together
16 and he had me sign a plea, a 15 year plea.

17 Q Before we get to far ahead of that, I want to go
18 back to something you just said. You said you filed for
19 Rule 5 and Brady?

20 A Yes.

21 Q Okay. Not your attorney on your behalf but you
22 personally?

23 A Yes.

24 Q While you were represented?

25 A Yes. Because I couldn't get Mr. Poole to

GREGORY PRICE-CROSS BY MR. JAMES

1 respond to me. I wrote him a letter. I wrote a letter on
2 the kiosk to him. The kiosk machine. And asking him for
3 my discovery for the drug charges. And he never
4 responded. Look at the kiosk machine from when I was in
5 Spartanburg County, he never responded to none of -- none
6 of the things that I sent him on the kiosk. And I relayed
7 that to Mr. Cheek's that I hadn't received it and like
8 that.

9 Q Do you recall discussing with your attorney the
10 elements of the offenses charged against you?

11 A We discussed the elements.

12 Q Did he talk to you about what it was that you
13 were facing, the charges that you were facing?

14 A Yes, he did talk to me about the charges I was
15 facing.

16 Q Did he talk to you about what The State had to
17 prove in order to prove those charges?

18 A No, he never -- we never talked about that. We
19 talked about the plea itself.

20 Q Did you give your attorney any leads or
21 witnesses to investigate to help in your defense?

22 A No.

23 Q Do you recall waiving your constitutional
24 rights, stepping forward into the actual plea hearing, do
25 you recall waiving your constitutional rights, such as

GREGORY PRICE-CROSS BY MR. JAMES

1 your right to a jury trial?

2 A Yes.

3 Q And your right to remain silent?

4 A Yes.

5 Q And your right to challenge the evidence against
6 you?

7 A I can't recall that.

8 Q You can't recall that? Would it help if I
9 refreshed your memory with a copy of the transcript?

10 THE COURT: Mr. James, I'll take judicial notice
11 of the transcript, I've read it, sir.

12 MR. JAMES: All right.

13 BY MR. JAMES:

14 Q You told The Judge that you pled guilty,
15 correct?

16 A Yes.

17 Q Repeatedly, in fact, as Judge Manning kept
18 asking you?

19 A Yes.

20 Q You recall hearing The State present the facts
21 of your case and agreeing with them?

22 A Yes.

23 Q Okay. And do you know disagree with the facts
24 that were presented by The State at your guilty plea
25 hearing?

GREGORY PRICE-CROSS BY MR. JAMES

1 A Well, I don't actually disagree but I was going
2 to explain the reason why I was actually pleading if I was
3 ever given a chance to address The Court. Which I was
4 never given the chance to address The Court as far as
5 why -- why I was making a plea. And I was actually going
6 to present to The Judge, if it was ever opened up for me
7 to be able to address the court --

8 Q Well, I was asking you --

9 A -- I was going to show him where I filed for my
10 motion and I never received it. And that that was the
11 reason why I was pleading because Mr. Cheek actually said
12 that he told me that The Judge, even him and The Judge
13 went to school together. And that me signing the plea, I
14 wasn't going to receive all the time. But just let him do
15 his job. Let him do his job. And I was going to have.
16 And I was going to go through a series of questions and I
17 was going to have to plead guilty to what was asked of me.
18 I was going to have to plead guilty. And let him -- let
19 him work.

20 Q But--

21 A I have --

22 Q No, go on.

23 A I was going to make known that I never received
24 my discovery and that was the reason why I was taking the
25 plea. And that ask The Judge for leniency being that the

GREGORY PRICE-CROSS BY MR. JAMES

1 fact that I never received my discovery. And I really
2 wanted to go to trial and show them that -- I was going to
3 to show them that I filed for a Hicks motion for a speedy
4 trial and that I filed for a Brady motion for my
5 discovery. And I couldn't prepare for trial. I was going
6 to let it be known. Well, I never had a chance to address
7 The Court.

8 MR. JAMES: I have no further questions, Your
9 Honor.

10 THE COURT: Okay.

11 Any redirect?

12 MS. ROSS: No, Your Honor.

13 THE COURT: Okay. All right.

14 Thank you, Mr. Price, you can step down. I
15 appreciate you being here, sir.

16 Anything further from the Applicant?

17 MS. ROSS: No, Your Honor.

18 THE COURT: Okay.

19 All right, anything from The State?

20 MR. JAMES: The State would call Attorney James
21 A. Cheek.

22 THE COURT: All right, Mr. Cheek, if you would
23 come up, please. Place your left hand on the Bible,
24 raise your right hand, sir.

25 JAMES CHEEK, after being duly sworn,

JAMES CHEEK-DIRECT BY MR. JAMES

1 testified as follows:

2 THE COURT: Please take a seat and state your
3 full name for the record, if you would.

4 THE WITNESS: My name is James Arthur Cheek.

5 THE COURT: Yes, sir, Mr. James, your witness.

6 MR. JAMES: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. JAMES:

9 Q Judge barely still morning but good morning,
10 Mr. Cheek.

11 A Good morning.

12 Q How are you doing today?

13 A Good morning. Doing fine, thank you.

14 Q How long have you been practicing law,
15 Mr. Cheek?

16 A Thirty-nine one half years.

17 Q I apologize for that question, Mr. Cheek. I
18 practice law because I was told there would be no math,
19 here we are. How much of that has been criminal law?

20 A I have practiced criminal law the entire time
21 with exception of the first three years. So, since about
22 1981 I've been practicing criminal law.

23 Q Were you appointed or retained to represent
24 Mr. Price?

25 A Actually, in a sense appointed. He was a client

JAMES CHEEK-DIRECT BY MR. JAMES

1 of the Public Defender's Office. In Spartanburg County we
2 have an appointment system for people who are defendants.
3 And seek the service of the Public Defender's Office. In
4 order to facilitate the cases moving forward into court,
5 we have -- the position that I was holding at the time so
6 to work with all the other public defenders on their
7 cases, to generate an opportunity to get into court sooner
8 than just waiting. Once there was discovery on the case
9 and once discovery has been received and communications
10 about the trial attorney. I use the term trial attorney
11 in reference to what Mr. Poole would have been, the trial
12 attorney. My job was to work at the jail as well as to
13 communicate with the people in the Department of
14 Corrections in order to see if we could resolve matters
15 more expeditiously.

16 Q You said that was your job at the time, is that
17 still your job?

18 A Yes, it still is.

19 Q All right. And about how many times did you
20 meet with Mr. Price in the course of your assisting him?

21 A Four times.

22 Q And in the course of representation did you file
23 a request for discovery or did another individual in the
24 Public Defender's Office file a motion for discovery
25 pursuant to Rule 5 and Brady?

JAMES CHEEK-DIRECT BY MR. JAMES

1 A Mr. Poole filed for discovery. I need to go
2 ahead and put on the record right now, however, that when
3 I communicate with the Solicitor's Office, I go through
4 their file. I have access to their file. I sit there in
5 front of them and go through the file. I pull information
6 I think I need to move forward with having the discussion
7 with my client. Many times I take the entire file,
8 depending on the size of the file. But in this case there
9 were so many charges pending at the time both on the
10 property matter as well as the drug charges until I pulled
11 what I needed. And I took the actual drug file with me
12 because that was very relevant. And I went through the
13 file with Mr. Price. So, I actually had the Solicitor's
14 own file when I sat there and went through the discovery
15 with him.

16 Q Okay. So, you reviewed materials with your
17 client using, essentially, an open file from the
18 Solicitor's Office?

19 A Yes. The only thing I protected while I was
20 there if there was any identifying an informant or
21 anything like that, I don't share that with the client.
22 That doesn't happen anyway until it's time for trial.

23 Q But you go over the strengths and weakness of
24 the case against your client?

25 A Yes. I recall specifically talking about that a

JAMES CHEEK-DIRECT BY MR. JAMES

1 location. Because in the discovery regarding one of the
2 transactions, the distribution charge, we talked about the
3 location and whether or not the road intersected at the
4 exact location that was put in the discovery. And we
5 talked about that. Because I grew up in Woodruff during
6 the summers so I was familiar with the area down there. I
7 talked to Mr. Price about that. I don't know which case
8 it was but we talked about one of roads didn't intersect
9 where the informant said it did. I said, well it's most
10 probably we're talking about it being close to that
11 location. I said trial at trial that will be cleared at
12 trial.

13 So, we did go through that and talk about
14 things like that. Talk about the forgery charge, of
15 course. And what his life had been like during that
16 period of time, back and forth to Maryland. Just back and
17 forth and not settled down any particular employment. One
18 of the things I think is important when you're putting up
19 a case regarding allegations of distribution that in
20 mitigation, you have to show to The Court that a person
21 has employment other than being involved in the
22 trafficking of drugs or to sell drugs. And we were going
23 to be unable to establish that for Mr. Price because the
24 informant -- he actually was back and forth to Maryland
25 and didn't have any real employment in South Carolina or

JAMES CHEEK-DIRECT BY MR. JAMES

1 Maryland during that period of time.

2 Q What if anything, did Mr. Price tell you about
3 what happened?

4 A Relative to the drug charges or the forgeries?
5 He admitted the forgeries, that was the -- case against
6 him; the forgeries. And with the distribution, he said
7 that he really couldn't remember where he was, what he did
8 on those particular days but it could have happened, it
9 could not have happened, he didn't remember specifically
10 anything that he could have used as a defense at trial.
11 No alibis. Just couldn't remember back that far,
12 Mr. Cheek, just can't remember back that far. Is what he
13 told me. But he acknowledged that he was not there in the
14 drug gang. He had a history of it. And he knew if he
15 went to trial with his background, could very well be an
16 issue at trial. So, with no job, no real stability in the
17 community, back and forth up the road to Maryland, he
18 probably would be better is we try to work out something.
19 I explained to him that the attorney in the case, The
20 Honorable Casey Manning, I was classmates with in law
21 school, he's a brother, he understood the drug situation,
22 he understood what happens a lot of times in the
23 communities with young people who are not stable; and that
24 I felt he would have a sense of understanding and a heart
25 not to go toward a maximum sentence in the case. And that

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1 from my experience with him over the years, that I thought
2 that he had done all that could be reasonably done from
3 the position he held as a Judge to be fair and to be
4 lenient in sentencing. And I think that in this case
5 that's exactly what panned out. A sense of leniency
6 giving my client's criminal history.

7 Q You don't do trial work?

8 A I don't. A contract with my work with the
9 Public Defender. I have in the past. But when they hired
10 me, they did not hire me to do trial work and I will not
11 do trial work because they don't pay me to do trial work.

12 Q I admire that.

13 A You don't need to apologize, I'm just explaining
14 to you why. Because once we reach a point where my
15 ability to effectively handle the clients towards a guilty
16 plea, then I immediately notify, as much as I can that
17 particular day, you need to get ready for trial because
18 this person is moving forward for trial. I don't
19 apologize for anything. My skills speak for themselves.
20 Both in the courtroom as a trial attorney as well as
21 working with pleas. Which I have the job I have is
22 because of the history I had as a trial attorney.

23 Q You've already indicated this but I just want to
24 emphasize to be clear. if he did want to proceed to trial,
25 you could have referred him back over to--

JAMES CHEEK-DIRECT BY MR. JAMES

1 A No, no, sir.

2 Q Or would have?

3 A Immediately would have. And that would give
4 that attorney the opportunity to start gearing up as soon
5 as possible towards trial.

6 Q Did you agree with your client's inclination to
7 plead guilty or did you counsel him otherwise?

8 A I agreed with his decision to plead guilty. And
9 I counseled him towards that because although a person is
10 presumed innocent until proven guilty beyond a reasonable
11 doubt, and the person's informed as I did with Mr. Price,
12 you don't have to plead at trial. You don't have to
13 testify at trial. You can just appear at trial and
14 require the State to prove you guilty beyond a reasonable
15 doubt and allow your attorney to confront the State's
16 witnesses. But I made it very clear to him, we're not
17 playing games, Mr. Price, you will not get the name of the
18 informant in your case until very shortly before trial.
19 You got all the information, but you didn't get the name
20 of that person.

21 Because I am not going to be someone
22 sitting with charges against me for murder or for
23 revealing information like that that could put someone at
24 peril. And I explained to him very clearly that if you
25 insist on a trial, you will not get that person's name,

JAMES CHEEK-DIRECT BY MR. JAMES

1 that person's identification. Because many times it is
2 someone that is a relative or friend of yours that you
3 think is a friend of yours. And many times before trial,
4 depending upon what the connection is, The State would
5 actually take those informants into custody to protect
6 them until the day of trial. In other to avoid someone
7 being intimidated or obstruction of justice charge arrive
8 as high as murder charges. And sometimes attorneys names
9 come up in that. I don't want my name involved in that,
10 again, as it had in the past.

11 Q Ultimately, your client pled guilty, Mr. Cheek,
12 if you could, how did you go about negotiating with The
13 State? How did you get the terms that were offered to
14 him?

15 A I asked the Solicitor if they would make a offer
16 in this case. And the offer came based upon the fact that
17 there were two charges, basically the distribution and the
18 possession charge, there was some property charges. And
19 when you look at his record, the last sentence he got was
20 10 years. And suspended to three years. And I asked the
21 Solicitor to please work with me so that he wouldn't get
22 anymore than he looked at the last time he was convicted
23 of a drug charge. And that's what we did. No more than
24 10, no less than one. Because he did three years
25 suspended sentence before. So, the Solicitor wanted to

JAMES CHEEK-DIRECT BY MR. JAMES

1 make sure that if The Judge was going to be more than just
2 lenient, but also show mercy, that it did not result in
3 him getting anything, essentially, a lot less than what he
4 got before but certainly nothing more. Which is why we
5 went with the range of 1 to 10?

6 Q Was there they ever a zero to ten plea offer?

7 A Zero to ten? I thought it was 1 to 10. I could
8 be wrong but I thought it was 1 to 10.

9 Q That's what I'm asking you --

10 A Was there ever an offer?

11 Q Was there ever an offer of zero to ten?

12 A Yes, sir, absolutely. Because we had to base
13 the offer, the plea on Alford has to be based upon some
14 offer. And the offer was 1 to 10. And concurrent as
15 opposed to 45 years.

16 Q So, the offer was 1 year to 10.

17 A One year to 10, concurrent.

18 Q Okay. Did you explain to your client the nature
19 of a recommended sentence and that The Judge could deviate
20 from the recommendation?

21 A I did. But in this case the Judge did not
22 deviate from the recommendation, he went along with the
23 recommendation.

24 Q Right. There was some discussion that he signed
25 paperwork to the tune of zero to 15 years.

JAMES CHEEK-DIRECT BY MR. JAMES

1 A The sentencing sheet has a range of sentencing
2 on it for a particular charge. And the charge is zero to
3 15 for distribution.

4 Q Okay. Who's decision was it to plead guilty?

5 A Gregory Danny Price's.

6 Q And did you explain to him all his
7 constitutional rights he was giving up by pleading guilty?

8 A I do that. I do that not only individually with
9 a client before they do it prior to coming to the
10 courtroom when I have more than three or four clients, I
11 go through a presentation in the jail room so that there's
12 no doubt that everyone understands. And give them an
13 opportunity to ask questions again in the jail room with
14 me before going into court.

15 Q At the plea hearing, isn't it true that you said
16 Mr. Price had been quote, Gone for seven years?

17 A I said that he had been running for seven years.

18 Q Why did you say that?

19 A Because he'd been running for seven years back
20 and forth to Maryland, that what he told me. Couldn't
21 establish any kind of situation, he was on probation or he
22 was working, had problems. And I used the figure seven
23 because in my faith, that's a figure of completion. When
24 a person has run for seven years, God gives them a chance
25 to resolve matters in their lives, that is the time where

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1 a complete change comes in a person's life. They go in a
2 different direction because they've done the seven. With
3 not any intent to derive him in any way, but he had no
4 right to run, not one day, from State of South Carolina.

5 He was bonded out. He not only left the
6 state, he confided in me that he left the state several
7 times back and forth to Maryland. A charges arose in
8 Maryland while he was away from State of South Carolina.
9 Through God's grace and mercy, I felt like he would stand
10 up and appear before The Court, that was the day of
11 reckoning for him. And God would bless him through The
12 Judge and give him something less than the 15 years and
13 give him something less than the ten. And he give him
14 seven.

15 Q You requested The Court grant your client 446
16 days credit for time served. May I ask how you went about
17 getting that number?

18 A That was the time, it was my understanding, that
19 the fugitive warrants were served on him. And he actually
20 was transported to Greenville. So, I asked credit for the
21 time he was also in Greenville. He was not in the custody
22 of Spartanburg County but I felt sure that he was entitled
23 to that time because had our trial come up sooner, he
24 would have been brought over here or he would have bonded
25 out sooner if he was brought over to Spartanburg sooner.

JAMES CHEEK-DIRECT BY MR. JAMES

1 I didn't think he should be challenged in any way in
2 moving forward with his life because we didn't get him
3 before Greenville got him. Had he been in Spartanburg
4 sooner -- charges on bond or something like that. It
5 never happened because he was in custody. So, I just
6 asked The Court to give him credit from the time he was
7 transported from the State of Maryland.

8 MR. JAMES: Before I proceed, I see that Your
9 Honor is standing, do you have. . .

10 THE COURT: I'm just standing because I have
11 been sitting too long.

12 MR. JAMES: I understand.

13 THE COURT: But -- and I'm not trying to send
14 you any message, but if you're asking for a message,
15 I've heard just about everything I need to hear.

16 MR. JAMES: Okay.

17 BY MR. JAMES:

18 Q Final question then.

19 A Yes, sir.

20 Q Do you think Mr. Price would have gotten more
21 time for -- more credit for time served if you'd ask for
22 more?

23 A The State would have objected to it. It would
24 have been a legal issue at that time back and forth. With
25 his behaviors and being arrested in Maryland, out of the

JAMES CHEEK-CROSS BY MS. ROSS

1 State of South Carolina without permission to be leaving
2 the state, serious charges, I felt that the Judge would
3 not give him that time. And I felt it would be better to
4 just to try to plead for God's grace and mercy as opposed
5 to trying to depend upon any kind of legal argument for
6 The Court on any kind of additional credit for time.
7 Because he wasn't supposed to be in custody in Maryland on
8 any charges. He was supposed to be in the State of South
9 Carolina, working and getting ready and preparing for
10 court.

11 MR. JAMES: Thank you, I have no further
12 questions. Please answer any questions opposing
13 counsel may have for you.

14 MS. ROSS: I just have a few.

15 CROSS-EXAMINATION

16 BY MS. ROSS:

17 Q So, you did not give Mr. Price a copy, like a
18 physical copy of his discovery? You went over it with
19 him?

20 A I went over it with him.

21 Q Okay. But you didn't make a photo copy of The
22 State's discovery and provide that to him?

23 A I don't do that. That was the responsibility
24 for his trial attorney if they wanted him to have it.

25 Q Okay.

JAMES CHEEK-CROSS BY MS. ROSS

1 A But I don't know what benefit -- I went over
2 everything with him. We discussed everything. We had
3 discussions. I even went up there on a Saturday to talk
4 to him about his charges.

5 Q All right. Now, when you looked at The State's
6 file, did you make any effort to find out whether the CI,
7 the confidential informant was still available six years
8 after the incident?

9 A (There was no response.)

10 Q In other words, when you were looking at the
11 discovery, did you look into the availability of the
12 confidential informant or did you see that at all?

13 A You know, I thought there was a recording
14 available of everything. I think the person's voice and
15 my client's behavior would have been on there. I really
16 don't recall asking if the person was still alive or not.
17 I don't recall saying that.

18 Q All right. And then, were you aware that
19 Mr. Price had been -- done some time and was arrested in
20 Maryland, did he tell you about that in that time?

21 A Beg your pardon?

22 Q Did Mr. Price in your discussions tell you that
23 he had been arrested in Maryland prior to coming to South
24 Carolina?

25 A You mean back in 2005 or '06 or '07 or '08?

JAMES CHEEK-CROSS BY MS. ROSS

1 Q No. On July 24th, 2013, did he say he had been
2 in Maryland before being brought here? Did you talk about
3 that?

4 A I'm confused.

5 Q Okay. Well, I'll take away the question. Did
6 you tell him he would get credit for time that he served?
7 Did you tell Mr. Price that?

8 A I told him that he would get credit. I felt
9 pretty sure that he would get credit for the time since he
10 was released. Although, he'd been in Greenville County, I
11 could get him credit for the time against charges in
12 Spartanburg County.

13 Q Okay.

14 A I know we had that discussion.

15 Q Okay.

16 All right. I have no further questions.

17 THE COURT: Anything further?

18 MR. JAMES: No further questions.

19 THE COURT: Okay. Good.

20 Thank you, Mr. Cheek, I appreciate it, sir.

21 THE WITNESS: Thank you.

22 THE COURT: Anything further from the State?

23 MR. JAMES: We have no further witnesses, Your
24 Honor.

25 THE COURT: Okay. All right. Any arguments you

1 need to present?

2 MS. ROSS: Judge, I would just reference Section
3 24-13-40, I've got a copy of it here from my
4 computer. Cut the section out of the section but I
5 can pass it up.

6 THE COURT: I can look it up, you've given me
7 the correct statute.

8 MS. ROSS: That's just one that I had in the
9 file that I'll be happy to hand you on -- would argue
10 that Mr. Price did a lot of time, he wasn't given
11 that time on another charge. South Carolina was
12 aware that he was there. And according to his
13 testimony, had served the bench warrants on him and
14 there was a hold on him in Maryland. So, we'd ask
15 that he receive credit for that time. He testified
16 that he would not pled but for his belief that he
17 would receive credit for time he served.

18 THE COURT: Okay.

19 Yes, sir, Mr. James.

20 MR. JAMES: Extremely brief, Your Honor. I
21 would just hand up to The Court for you
22 consideration, the case of Robinson v. State. That
23 is 329 S.C. 65, it is a 1998. If I may approach?

24 THE COURT: Yes, please do. Thank you, sir.

25 MR. JAMES: Your Honor, it sets forth very

1 clearly the circumstances under which a person is
2 entitled to credit for time served under a South
3 Carolina detainer. And it sets forth the procedures
4 by which he must get -- by which he must follow to
5 get that credit. There's no indication that he
6 followed those instructions. Which are laid out a
7 the bottom right column of Page 3, going over to Page
8 4 of the printout I've handed up to you.

9 Aside from that, Your Honor, the record speaks
10 for itself. And we would respectfully request that
11 his Application for Relief be denied.

12 THE COURT: Okay.

13 Yes, ma'am.

14 MS. ROSS: And we just distinguished Robinson.
15 And in that case there was one where the -- South
16 Carolina was unaware of the arrest in another state.
17 The testimony here was that South Carolina was aware
18 of Mr. Price's arrest and had, in fact, put a hold on
19 him. And certainly by the time he was released they
20 were aware that he was there because they went and
21 picked him up. So, there's no question that South
22 Carolina knew -- had been notified that Mr. Price was
23 up in Maryland and serving time. And had a detainer
24 on him.

25 THE COURT: Okay. All right. Good enough.

1 All right, after having reviewed the record,
2 heard the arguments of counsel and the testimony of
3 The Applicant, always having read the transcript of
4 record, I respectfully deny The Applicant's
5 Post-Conviction Relief Application. Has failed to
6 prove by the applicable standard that counsel was
7 deficient and he was prejudiced thereby.

8 With regard to credit for time served, in
9 looking at the record, it appears clear that The
10 Judge gave him credit for time served from the date
11 he signed an waiver of extradition. There's no
12 evidence in the record that he applied with the -- or
13 notified the South Carolina Department of Corrections
14 that he was available or unavailable to turn himself
15 in before that date. And it appears that, in fact,
16 that there is not evidence in the record that he
17 complied with the provisions in Robinson vs. State of
18 South Carolina. I'll also note for the record that
19 Judge Manning gave him 466 days, which is
20 specifically the amount of days from which he signed
21 the waiver of extradition. Which seems to be a very
22 specific date and time which he considered. I'll
23 also note that in the record that he considered any
24 time over and beyond that, a period of time which he
25 had absconded from the jurisdiction of South

1 Carolina. And therefore, considered that he wasn't
2 due credit for time served.

3 I'll also tell you that in many instances, it is
4 within the discretion of The Court to determine what
5 the credit for time served is. And The Court can
6 determine in its discretion what's appropriate and
7 what's not. There has been a specific Order issues
8 based upon the facts that were readily available at
9 the time. That makes since and in keeping with the
10 established jurisprudence in the State of South
11 Carolina. And I'll not supercede Judge Manning's
12 order in that regard. Thank you very much.

13 If you would draft me an Order, Mr. James.

14 MS. ROSS: Thank you, Your Honor.

15 THE COURT: Thank you.

16 MR. JAMES: 30 days, Your Honor, please?

17 THE COURT: Sir? Sure. Absolutely.

18 Absolutely, no worries. Thank you.

19 (WHEREUPON, the proceedings were concluded.)
20
21
22
23
24
25

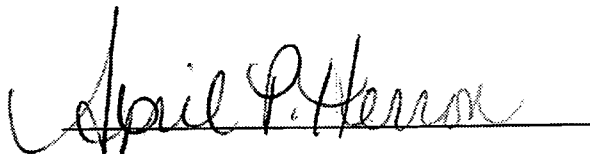
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for
the Thirteenth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and complete Transcript of Record of the
proceedings had and evidence introduced in the trial of
the captioned case, relative to appeal, in the Court of
Common Pleas for Spartanburg County, South Carolina, on
the 26th day of June, 2017.

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

October 11, 2017

A handwritten signature in cursive script, reading "April P. Herron", is written over a horizontal line.

APRIL P. HERRON, Court Reporter

1626.17

General Sessions

NLC
504

COUNTY OF Spartanburg
STATE OF SOUTH CAROLINA

SPARTANBURG COUNTY
SHERIFF'S OFFICE

2012 FEB -9 AM 9:32

BENCH WARRANT *90272*

THE STATE

VS.

Gregory Danny Price

119 Murrell Road Lot 18

Greenville, SC 29645

(Last known address)

CSBwm110010

ORIGINAL

Bench Warrant No. M110010

Case No. 2009GS4202698

M110010

Drugs / Manufacture, distribution, etc. of
methamphetamine, cocaine base, 3rd or sub.

Date Issued February 8, 2012

Soc. Sec. No. 000- -

Sex M Race B DOB [REDACTED]

Height 57

Weight 135

Eyes Brown

Hair Black

Date Served

Served by

DL No.

DO NOT SERVE

2012001434

ORIGINAL

01-12-801530



DISTRICT COURT OF MARYLAND FOR Howard County

Located at 3451 Courthouse Dr, Ellicott City, Maryland 21043

STATE OF MARYLAND

VS. PRICE, GREGORY DANIEL

COMPLAINANT:

Officer: BAKER, JUSTIN

Agency/Subagency: CB 13

Officer ID: 5012

UNKNOWN ADDRESS

UNKNOWN, XX 000000000

CC#: 10-30027

LID:

Race: 1 Sex: M

DOB: [REDACTED]

SID:

DL#:

Ht: 5' 6"

Phone(H):

Wt: 150

Hair: BLK

Phone(W):

Eyes: BRN

Case No. 6T00072561

Index # 13-K-13-053586
13-K-13-053586
TRAK 10-1001-955324
Warrant No. D100888130

STATEMENT OF CHARGES

UPON THE FACTS CONTAINED IN THE APPLICATION OF Officer: BAKER, JUSTIN IT IS FORMALLY CHARGED THAT PRICE, GREGORY DANIEL at the dates, times and locations specified below:

NUM	CHG/CIT	STATUTE	PENALTY	DESCRIPTION OF THE CHARGE
001	2 0910	CR 2 205	LIFE	★ ATT 1ST DEG. MURDER ★ On or About 03/29/2010 7146 OLD WATERLOO RD. JESSUP HOWARD COUNTY, MD. ...did feloniously, willfully, and of deliberately premeditated malice aforethought, attempt to kill and murder STEVEN MICHAEL DIMARZO. Against the Peace, Government, and Dignity of the State.
002	1 1420	CR 3 202	25 Y	ASSAULT-FIRST DEGREE On or About 03/29/2010 7146 OLD WATERLOO RD. JESSUP HOWARD COUNTY, MD. ...did assault STEVEN MICHAEL DIMARZO in the first degree in violation of CR 3-202, contrary to the form of the act of the assembly in such case made and provided and against the peace, government and dignity of the state. Against the Peace, Government, and Dignity of the State.
003	2A0705	CR 3 403	20 Y	ATT-ARMED ROBBERY On or About 03/29/2010 7146 OLD WATERLOO RD. JESSUP HOWARD COUNTY, MD. ...did unlawfully and feloniously, with a dangerous weapon, attempt to rob STEVEN MICHAEL DIMARZO and violently did attempt to steal from said person U.S.CURRENCY. Against the Peace, Government, and Dignity of the State.
004	2A0700	CR 3 402	15 Y	ATT- ROBBERY On or About 03/29/2010 7146 OLD WATERLOO RD. JESSUP HOWARD COUNTY, MD. ...did attempt to unlawfully and feloniously rob STEVEN MICHAEL DIMARZO of U.S.CURRENCY. Against the Peace, Government, and Dignity of the State.

APPELLANT'S
EXHIBIT

2 606-11

COPY

Date : 03/08/2011 Time : 09:30 AM

Tracking No. 101001955320

4103132277 >> 4103135285 P 3/13

Judicial Officer:

THOMAS J. BARTON #A-9X.

A083

2013-07-24 19:45 HCPD RECORD SECTION

3 6.26.17

CIRCUIT COURT FOR HOWARD COUNTY
Wayne A. Robey
Clerk of Circuit Court
8360 Court Avenue
Ellicott City, MD 21043-4579
(410)-313-2111, TTY for Deaf: (410)-313-3840
Civil (410) 313-3844 Criminal (410) 313-3822

07/08/16

Case Number: 13-K-13-053586 IN
Date Filed: 08/14/2013
180 Day End: 02/11/14 Text: DONE
Status: Closed/Inactive
Judge Assigned: To Be Assigned,
Arrest Tracking Numbers: 10-1001-95532-0
Arrest Date: 07/24/13
Location : Jail / HCD
CTS Start : 08/15/13 Target : 02/11/14

State Of Maryland vs Gregory Daniel Price

C A S E H I S T O R Y**OTHER REFERENCE NUMBERS**

Description	Number
Arrest Tracking Number	10-1001-95532-0
District Court Number	6T00072561
Case Folder ID	K13053586V01

INVOLVED PARTIES

Type Num	Name(Last,First,Mid,Title)	Addr Str/End	Pty. Disp. Addr Update	Entered
PLT	001 State Of Maryland			08/15/13
		Party ID: 0000013		
	Attorney: 0804770 McGuinn, Colleen Office Of The State Attorney The Carroll Building 3450 Courthouse Drive Ellicott City, MD 21043	Appear: 08/14/2013		08/15/13
DEF	001 Price, Gregory Daniel 07/07/76			08/15/13
		Party ID: 0419048		
	State ID Number:0003969385 Central Criminal Number:10-30027			

13-K-13-053586 Date: 07/08/16 Time: 11:35

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FBI Number:799044VA7

Incarceration Facility: Howard County Department of Corrections
 Inst: Howard County Department of Corrections 08/15/13
 7301 Waterloo Road
 Jessup, MD 20794

08/15/13 DM

Mail: 314 Grantley Street 08/15/13
 Baltimore, MD 21229

08/15/13 DM

Attorney: 0013989 Hanson, Carol A

Appear: 08/15/2013 Removed:11/13/13

08/16/13

0816479 Turnblacer, Theodore C
 Office Of The Public Defender
 3451 Courthouse Drive
 Ellicott City, MD 21043
 (410)480-7777

Appear: 08/15/2013

08/16/13

CALENDAR EVENTS

Date	Time	Fac	Event Description	Text SA	Jdg Day	Of Notice	User ID
Result			ResultDt By Result Judge	Rec			
09/13/13	08:30A	CR1	Scheduling Conference		RSB	01 /01	08/26/13 HC JS
Held/Concluded			09/13/13 E R.Bernhardt	Y			
Stenographer(s): Felicia Smith							
01/16/14	08:30A	CR1	Criminal Motions	Y	RSB	01 /01	HC CAF
Held/Concluded			01/16/14 E R.Bernhardt	Y			
Stenographer(s): Susan Gnat							
To include Motion for Postponement							
01/22/14	08:30A	CR1	Criminal Jury Trial		TJM	01 /01	HC HC
Postponed			01/17/14 D R.Bernhardt				
04/29/14	08:30A	CR2	Criminal Motions	Y	TJM	01 /01	HC JH
Held/Concluded			04/29/14 E T.McCrone	Y			
Stenographer(s): Gary Michael							
Mandatory and DNA Motions							
Time estimate: 3 hours							
05/19/14	08:30A	CR2	Criminal Motions	Y	WVT	01 /01	HC JH
Held/Concluded			05/19/14 E W.Tucker	Y			
Stenographer(s): Susan Gnat							
Motions in Limine							
Time estimate: 3 hours							
06/02/14	08:30A	CR4	Criminal Jury Trial	Y	RSB	01 /01	HC HC
Cancelled/Vacated			05/19/14 E				
Time estimate: 3 days							

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COUNTS AND SENTENCING

Count	Ver	Reas	Amd	Off/Amd Date	ATN	CJIS	Statute	Class	Disp	Disp Date	Stg	Plea Date	Vrd Date	Judge
01	0	0	03/29/10	10-1001-95532-0 1	1420 CR.3.202			F	NP	05/19/14	SF			WVT *
					Assault-First Degree									
02	0	0	03/29/10	10-1001-95532-0 2	0705 CR.3.403			F	NP	05/19/14	SF			WVT *
					Armed Robbery									

JUDGE HISTORY

JUDGE ASSIGNED	Type	Assign Date	Removal RSN
TBA To Be Assigned.	J	08/15/13	

DOCUMENT TRACKING

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
00001000	Criminal Indictment Track 2	08/14/13	08/15/13	000	TBA	05/19/14	DM JH
00002000	Bail Bond	08/14/13	08/15/13	000	TBA	05/19/14	DM JH
00002001	Bond Set @ Held without Bond See file for conditions	08/14/13	08/15/13	000	TBA	05/19/14	DM JH
00003000	Attorney Appearance Colleen McGuinn	08/14/13	08/15/13	PLT001	TBA	08/15/13	DM
00004000	Appearance-Office of Public Defender	08/15/13	08/16/13	000	TBA	08/16/13	JS
00005000	Defense Attorney Appearance Filed Carol A Hanson	08/15/13	08/16/13	DEF001	TBA	08/16/13	JS
00006000	OPD pleadings pursuant to MISC #20	08/15/13	08/16/13	000	TBA	05/19/14	JS JH
00007000	Defense Attorney Appearance Filed Theodore C Turnblacer	08/15/13	08/16/13	DEF001	TBA	08/16/13	JS
00008000	Correspondence from OPD that Defendant	08/15/13	08/19/13	DEF001	TBA	05/19/14	DM JH

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incarcerated at HCDC

Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
00009000	Defendant's Suggestion for Removal	08/19/13	08/19/13	DEF001	TBA	05/19/14	DM JH
00009001	Order- No basis alleged. Denied	09/04/13	09/04/13	000	LRG	05/19/14	JH JH
00010000	Hearing Notice Issued	08/26/13	08/26/13	000	TBA	08/26/13	HC
00011000	Writ of Habeas Corpus Issued	08/26/13	08/26/13	000	TBA	08/26/13	HC
00012000	Victim Form Certificate of Compliance	08/30/13	08/30/13	PLT001	TBA	08/30/13	CAF
00013000	Request for Speedy Trial: Filed by Defendant	08/30/13	09/03/13	DEF001	TBA	05/19/14	CAF JH
00014000	Open Court Proceedings Defendant Produced From HCD For Scheduling Conference New Date: Motions 1-16-14 Jury Trial 1-22-14 Notice Signed	09/13/13	09/13/13	000	RSB	05/19/14	JS JH
00015000	Writ of Habeas Corpus Issued	09/17/13	09/17/13	000	TBA	09/17/13	HC
00016000	Writ of Habeas Corpus Issued	09/17/13	09/17/13	000	TBA	09/17/13	HC
00017000	Line W/Attached discovery letter	09/23/13	09/25/13	PLT001	TBA	05/19/14	CAF JH
00018000	Line Re: supplemental letter	09/25/13	09/25/13	PLT001	TBA	05/19/14	PJW JH
00019000	Line With Attached Supplemental Discovery Letter	10/08/13	10/08/13	PLT001	TBA	05/19/14	JS JH
00020000	Line to assert that the State intends to call Mr. James W. Armstrong	10/24/13	10/24/13	PLT001	TBA	05/19/14	JH JH
00021000	Line with attached supplemental discovery letter	10/28/13	10/28/13	PLT001	TBA	05/19/14	JH JH
00022000	Line with attached supplemental discovery letter	11/05/13	11/05/13	PLT001	TBA	05/19/14	JH JH
00023000	Line with attached supplemental discovery letter	11/14/13	11/14/13	PLT001	TBA	05/19/14	JH JH
00024000	Attorney Appearance Removed Carol A Hanson	11/14/13	11/14/13	DEF001	TBA	11/13/13	PJW
00025000	Line of Expert Witness	11/14/13	11/14/13	PLT001	TBA	11/14/13	PJW
00026000	Automatic Discovery and Request for Discovery	11/13/13	11/14/13	PLT001	TBA	05/19/14	PJW JH

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Num/Seq	Description	Filed	Entered	Party	Jdg-Ruling	Closed	User ID
00027000	State's Notice of Intention to Introduce DNA Profile Evidence at Trial	11/15/13	11/15/13	PLT001	TBA	11/15/13	JH
00028000	Line with attached supplemental discovery letter	11/22/13	11/22/13	PLT001	TBA	05/19/14	JH JH
00029000	Motion to Produce Records Regarding DNA Analysis	11/21/13	11/25/13	DEF001	TBA	05/19/14	CAF JH
00030000	Line indicating the State intends to call and expert witness	11/26/13	11/26/13	PLT001	TBA	05/19/14	JH JH
00031000	Line with attached supplemental discovery letter	11/27/13	12/03/13	PLT001	TBA	05/19/14	JH JH
00032000	Line with attached supplemental discovery letter	12/12/13	12/12/13	PLT001	TBA	05/19/14	JH JH
00033000	Line - With attached supplemental discovery letter	01/06/14	01/06/14	PLT001	TBA	05/19/14	LR JH
00034000	Line - With attached supplemental discovery letter	01/08/14	01/08/14	PLT001	TBA	05/19/14	LR JH
00035000	State's Motion for Continuance	01/09/14	01/09/14	PLT001	TBA	05/19/14	DM JH
00035001	To be heard in open court in advance of trial date	01/13/14	01/13/14	000	LRG	05/19/14	PJW JH
00035002	Defendant's Response to State's Request for Postponement	01/15/14	01/15/14	DEF001	TBA	05/19/14	JH JH
00036000	Writ of Habeas Corpus Issued	01/14/14	01/14/14	DEF001	TBA	01/14/14	CAF
00037000	Writ of Habeas Corpus Issued	01/14/14	01/14/14	DEF001	TBA	01/14/14	CAF
00038000	Writ of Habeas Corpus Issued	01/15/14	01/15/14	DEF001	TBA	01/15/14	LR
00039000	Open Court Proceedings Defendant produced from HCD for Criminal Motions State requests for Hicks Waiver - Granted Postponement Requested By: State Postponement: Granted - Court finds good cause Hicks Waived New Date: Mandatory Motions/DNA - 4/29/14, Motions in Limine - 5/19/14, Jury Trial - 6/2/14 @ 8:30 a.m. Notice signed	01/16/14	01/16/14	000	RSB	05/19/14	CAF JH
00040000	Waiver of Hick's Rule	01/16/14	01/17/14	000	TBA	05/19/14	CAF JH
00041000	Writ of Habeas Corpus Issued	01/17/14	01/17/14	000	TBA	01/17/14	HC

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Num/Seq	Description	Filed	Entered	Party	Jdg Ruling	Closed	User ID
00042000	Writ of Habeas Corpus Issued	01/17/14	01/17/14	000	TBA	01/17/14	HC
00043000	Writ of Habeas Corpus Issued	01/17/14	01/17/14	000	TBA	01/17/14	HC
00044000	Line - With attached supplemental discovery letter	02/28/14	02/28/14	PLT001	TBA	05/19/14	LR JH
00045000	Line - With attached supplemental discovery letter	03/07/14	03/07/14	PLT001	TBA	05/19/14	LR JH
00046000	Line with attached supplemental discovery letter	04/28/14	04/28/14	PLT001	TBA	05/19/14	JH JH
00047000	Open Court Proceedings Defendant was produced from HCD for Motions Defendant's Motion to withdraw motions hearing: Granted	04/29/14	04/29/14	000	TJM	05/19/14	JH JH
00048000	Open Court Proceedings Defendant was produced from HCD but not present in Court Case Nolle Prossed	05/19/14	05/19/14	000	WVT	05/19/14	JH JH
00049000	STET/Nolle Prosequi/Dismissal Notice Issued on 05/19/14	05/19/14	05/19/14	000	TBA	05/19/14	JH
00050000	Release from Commitment Issued	05/19/14	05/19/14	000	TBA		JH
00051000	Call from Def's Father re: Detainer Certified case history mailed to SCDC 2/9/16	02/09/16	02/09/16	DEF001	TBA		CP CP
00052000	Correspondence From Def Req Info Be Frwd To S.C.D.C. In Ref To Detainer Certified Case History & Disposition Mailed & Faxed To S.C.D.C. On 3/22/16.	03/21/16	03/22/16	DEF001	TBA		JMM JMM

TICKLE

Code	Tickle Name	Status	Expires	#Days	AutoExpire	GoAhead	From	Type	Num	Seq
HKTR	Hicks Date Tickle	CANCEL	01/02/14	140	no		no		0	000
SLTR	Set List For Trial	CANCEL	01/17/14	0	yes		no	CRJT S	0	000

CASE FOLDER HISTORY

Date	Time	Type	User	Location	Clerk	Reason
----	----	----	----	-----	-----	-----
03/23/16	10:41 AM	CheckIn		Fileroom	EV	
03/23/16	8:16 AM	CheckOut	JH	Courtroom Clerk	JH	
03/22/16	9:55 AM	CheckIn		Fileroom	EV	
03/22/16	9:39 AM	CheckOut	CP	Criminal Clerk	CP	
05/20/14	8:34 AM	CheckIn		Fileroom	PUB	

Gregory Daniel Price,
S.C.D.C. No. 240729,

Applicant,

v.

State of South Carolina,

Respondent.

) Case No.: 2016-CP-42-02489

)

)

)

) **ORDER OF DISMISSAL**

)

)

)

)

)

)

CLERK OF COURT
SPARTANBURG COUNTY
2017 JUL 28 PM 2:08
M. HOPE BLACKLEY

This matter comes before the Court by way of an application for post-conviction relief filed by Gregory Daniel Price (“Applicant”) on July 6, 2016. Respondent made its return on or about May 1, 2017. The Court convened an evidentiary hearing into the matter on June 26, 2017, at the Spartanburg County Courthouse in Spartanburg, South Carolina. Applicant was present at the hearing and represented by Susannah C. Ross, Esquire. Johnny Ellis James Jr., of the South Carolina Attorney General’s Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant’s plea counsel, James A. Cheek, Esquire (“Counsel”) also testified. The Court had before it Applicant’s records from the South Carolina Department of Corrections, a copy of the original plea transcript, the records of the Spartanburg County Clerk of Court regarding the subject convictions, the pleadings, and the exhibits introduced at the hearing. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the May

Applicant secured release on bond on terms filed with the Spartanburg County Clerk of Court on February 16, 2009. Applicant thereafter left the state. Applicant failed to appear in Court and a bench warrant was issued for his arrest on February 8, 2012. He was arrested in Howard County, Maryland on July 24, 2013, for conduct occurring in that state.¹ The Maryland charges were dismissed on May 19, 2014, at which time Applicant was served a warrant for his fugitive status in South Carolina. Applicant waived extradition on May 20, 2014, and was thereafter transported to South Carolina on June 4, 2014.

Applicant was subsequently charged with two counts of forgery, value less than \$10,000 (2015-GS-42-02773, -02775). James A. Cheek, Esquire, represented Applicant, and Grady B. Anthony, of the Seventh Circuit Solicitor's Office, prosecuted the case.

On August 4, 2015, Applicant waived presentment and pled guilty to the forgery charges.² Applicant also pled guilty to possession of cocaine base. Finally, Applicant entered an Alford³ plea to both counts of distribution of cocaine base. The Honorable L. Casey Manning sentenced Applicant to imprisonment for concurrent terms of seven years for each count of distribution and five years on each of the other charges. Applicant did not appeal his pleas or sentences.

Present Application

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

¹ To wit: first-degree assault and armed robbery. See Md. Code Ann., Crim. Law § 3-202; §3-403.

² Applicant was sentenced pursuant to the law as it existed at the time the crimes were committed: December 2009. Accordingly, Applicant pled to forgery, value less than \$5,000.

³ North Carolina v. Alford, 400 U.S. 25 (1970).

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CLERK OF COURT
SPARTANBURG COUNTY
2017 JUL 28 PM 2:08
M. HOPE BLACKLEY

- b. "Applicant only received partial credit for 446 days credit due to the lack of plea counsel's investigation and overall ineffectiveness in presenting to the Court that Applicant has been in pre-trial detention since July 24, 2013 and held on detainers until August 4, 2015."
- c. "Plea counsel was aware of State's recommendation of 0-10 year plea offer. However, plea counsel never relayed plea offer to Applicant[.]"
- d. "Plea counsel understood that Applicant never received his Rule 5 (motion for discovery) and but for this, Applicant would not have [pled] guilty. [] Plea counsel failed to effectively represent Applicant by not relaying this denial of due process to Judge Manning in [mitigation] of sentencing."

2. "Denial of Due Process"

At the evidentiary hearing, Applicant proceeded forward on the allegations as stated in his application and excerpted above.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented.

A. Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRPC; 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, he or she 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." Butler at 442, 334 S.E.2d 441 (quoting Strickland v. Washington, 466 U.S. 668, 686 (1984)). The proper measure

"[C]ounsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler at 442, 334 S.E.2d 441 (quoting Strickland at 690). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989). "Judicial scrutiny of counsel's performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel's assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." Strickland, 466 U.S. at 689; Edwards v. State, 392 S.C. 449, 456-57, 710 S.E.2d 60, 64 (2011). "[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry at 117, 386 S.E.2d at 625 (citing Strickland at 688). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry at 117-18, 386 S.E.2d at 625 (citing Strickland at 694). The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. Strickland at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the

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IAC Allegation #1 – Seven Years Remark

The Court finds that Applicant has proven neither prong of Strickland with respect to Counsel's statement to the Court that Applicant had been in Maryland for seven years. The specific exchanges in question read as follows:

THE COURT: How long was he gone, absconded? How long was he living in Maryland before they finally caught up with him?

[COUNSEL:] Seven years, Judge.

...

[COUNSEL:] Yes, sir, Your Honor, and I'd just bring to the court's attention that he is offering these charges under Alford for the reason that they happened so –

THE COURT: He doesn't even remember them.

[COUNSEL:] He doesn't remember them, your Honor.

THE COURT: How could he?

[COUNSEL:] But he's, but he's acknowledging he was involved in some behaviors that –

THE COURT: Yes.

[COUNSEL:] – sounds like what the state has against him. Your Honor, he has been gone for seven years.

Tr. 25, ll. 18-21; p. 26, l. 22 – p. 27, l. 7. At the evidentiary hearing, Applicant testified that since the bench warrant for his arrest was issued in 2012, he had only been on the run for one year before his arrest in Maryland. Counsel testified that the basis for his "seven years" remark

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CLERK OF COURT
SPARTANBURG COUNTY
2017 JUL 28 PM 2:09
M. HOPE BLACKLEY

The Court finds Counsel's testimony credible. Counsel's remarks to Judge Manning were justly founded on Counsel's knowledge derived from Applicant's statements to him. Counsel's first remark in response to a direct question from the bench. Counsel's second remark was in explanation of the Alford plea. Applicant has failed to meet his burden of demonstrating that Counsel was deficient in making this remark or that it brought any prejudice upon him. Accordingly, Applicant's request for relief based upon this allegation is **DENIED**.

IAC Allegation #2 – Failure to Secure Credit for Time Served

The Court finds that Applicant has proven neither prong of Strickland with respect to Counsel's efforts to secure for him credit for time served and rejects his argument that he is entitled to credit for his time served since his Maryland arrest. South Carolina law provides that:

In every case in computing the time served by a prisoner, full credit against the sentence shall be given for time served prior to trial and sentencing[.] . . . Provided, however, that credit for time served prior to trial and sentencing shall not be given: (1) when the prisoner at the time he was imprisoned prior to trial was an escapee from another penal institution; or (2) when the prisoner is serving a sentence for one offense and is awaiting trial and sentence for a second offense in which case he shall not receive credit for time served prior to trial as a reduction of his sentence for the second offense.

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SPARTANBURG COUNTY
CLERK OF COURT
J. HOSE BLAKEY

S.C. Code Ann. § 24-13-40. While a convict is held subject to a South Carolina detainer, he is constructively in South Carolina custody, and may receive credit for time spent incarcerated in another jurisdiction pursuant to that detainer. Robinson v. State, 329 S.C. 65, 71, 495 S.E.2d 433, 436 (1998); see also Kephart v. State, 277 S.C. 395, 396, 289 S.E.2d 402 (1982) ("We have held that where a non-escapee is imprisoned in another state while contesting extradition, he is entitled to credit on any subsequent sentence given by a South Carolina court."). The convict may also receive this credit by notifying the South Carolina Department of Corrections that he is

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in service of a South Carolina sentence, the convict is not necessarily entitled to such credit. Delahoussaye v. State, 369 S.C. 522, 528, 633 S.E.2d 158, 163 (2006) (citing Oglesby v. Leeke, 263 S.C. 283, 286-87, 210 S.E.2d 232, 233-34 (1974)).

Applicant testified that after his July 24, 2013, arrest in Maryland, he was denied bond due to the outstanding South Carolina bench warrant. The Court does not find credible Applicant's implicit speculation that he would have been granted bond in Maryland but for the South Carolina bench warrant. Additionally, there is no evidence that Applicant ever informed S.C.D.C. of his incarceration in Maryland pursuant to Robinson.

It was uncontested that Applicant was not served a fugitive warrant until the Maryland charges were dropped on May 19, 2014; until that time Applicant was incarcerated purely on the basis of the severe allegations against him by the State of Maryland. The Court's calculations show that 442 days passed from May 19, 2014, to Applicant's plea on August 4, 2015. Applicant received credit for 446 days of time served, encompassing that entire period and then some. The Court can find no basis on which Applicant is entitled to any additional credit for time spent incarcerated in Maryland, awaiting trial for crimes alleged to have occurred in Maryland, while fugitive from South Carolina. Accordingly, Applicant's request for relief based upon this allegation is **DENIED**.

IAC Allegation #3 – Failure to Communicate Plea Offer

The Court finds that Applicant has failed to prove either prong of Strickland with respect to his allegation that Counsel failed to communicate a plea offer of 0-10 years. Applicant alleged in his application that Counsel did not communicate a 0-10 offer, that Applicant signed a 0-15 offer, and that Counsel failed to object when the State recommended a sentence of 1-10

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The Court also finds Applicant's argument as to prejudice facially nonsensical—an offer of 0-15 years would not have been better than the offer of 1-10 that Applicant actually received. It is evident from the records that Applicant was sentenced within the range of the plea offer actually submitted, let alone the fictional offers to which Applicant testified. Accordingly, Applicant's request for relief based upon this allegation is **DENIED**.

IAC Allegation #4 – Failure to Attain Rule 5 & Brady Materials

The Court finds that Applicant has failed to prove either prong of Strickland with respect to his allegation that he never received his Rule 5 and Brady materials. Applicant testified at the evidentiary hearing that he never received discovery and, as such, could not prepare for trial. Counsel testified that another attorney filed for discovery. Counsel additionally testified that he had direct access to the solicitor's file, who maintained an open file policy. Counsel testified that he does not share information about confidential informants.

The Court finds Applicant's testimony not credible and finds Counsel's testimony credible. The Court finds that Applicant and Counsel had full access to all Rule 5 and Brady materials. Accordingly, Applicant's request for relief based upon this allegation is **DENIED**.

B. Denial of Due Process

The Court finds that Applicant has failed to demonstrate any deprivation of due process. Applicant alleged in his application that discovery violations by the State denied him due process. For the reasons set forth in Section A.4 above, the Court finds that Applicant and Counsel had full access to all Rule 5 and Brady materials. The Court also finds that Applicant's complaint that he was being "railroaded" is fundamentally undercut by his filing *pro se* speedy trial motions. Accordingly, Applicant's request for relief based upon this allegation is **DENIED**.

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CLERK OF COURT
SPARTANBURG COUNTY
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M. HOPE BLAKEY

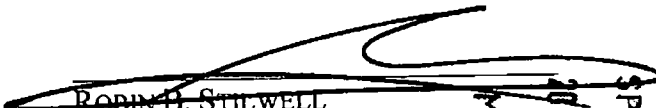
established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 27 day of June, 2017.


ROBIN B. STILWELL
Presiding Judge
Seventh Judicial Circuit

GREENVILLE, South Carolina

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SPARTANBURG COUNTY
2017 JUL 28 PM 2:09
M. HOPE BLACKLEY



M. Hope Blackley
Clerk of Court
July 28, 2017

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Gregory Daniel Price
Applicant *# 240729*

7TH JUDICIAL CIRCUIT

CASE # *2016CPW-2489*

VS
State
Respondent

CERTIFICATE OF SERVICE

I certify that, on this date, I served a copy of the *Order Dismissal*
In this action dated *7-28*, *2017* on *7-28-17*

By mailing to him/her, at his/her last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Brittina Arnone
Alicia Oliver
Susanab Ross

7-28-17
(Date)

Corice Seay
(Signature)

The Circuit Court of the Thirteenth Judicial Circuit

Robin B. Stilwell
Judge

Greenville County Courthouse
305 East North Street, Suite 315
Greenville, SC 29601-2113
Phone: (864) 467-8406
Fax: (864) 235-3625
rstilwellj@sccourts.org

July 26, 2017

The Honorable Hope Blackley
Spartanburg County Clerk of Court
180 Magnolia Street, Suite 500
Spartanburg, SC 29306

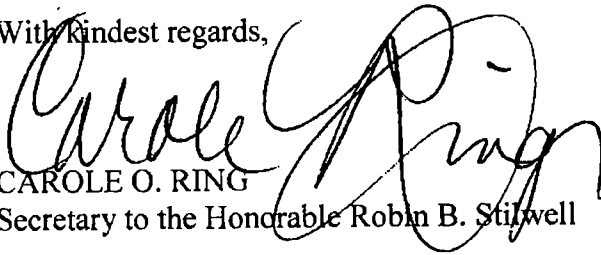
RE: Thomas R. Osborne vs. State of South Carolina
2014-CP-42-04604
Gregory Daniel Price vs. State of South Carolina
2016-CP-42-02489

Dear Ms. Blackley:

Enclosed herewith please find two Orders of Dismissal in the above-referenced matters. Judge Stilwell has asked that I send them to you for filing and for distribution to all interested parties.

Please let me know if you should need anything else regarding these matters.

With kindest regards,



CAROLE O. RING
Secretary to the Honorable Robin B. Stilwell

cor
Enclosures

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2017 JUL 28 PM 2:08
M. HOPE BLACKLEY

DOCKET NO.

09-GS-42-2694

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 11 2009

TERM

THE STATE

vs.

Gregory Danny Price

FTA BW

to remain active

4/9/12

Indictment for

POSSESSION OF COCAINE BASE
(CRACK COCAINE)

SC Code: 44-53-375

WITNESSES

1. SENTENCE MADE

2. REPORT ENDED

SPITG CO SHERIFF'S OFFICE

3. INDEXED

4. CHECKED WARRANTS

5. CHECKED SIGNATURE

6. ASSESSMENT AND

FINE CARD MADE

7. TRAFFIC VIOLATIONS COPY

1. SENTENCE MADE

ARREST WARRANT NUMBER

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

M110371

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

ACTION OF GRAND JURY

7. ASSESSMENT AND

FINE CARD MADE

8. TRAFFIC VIOLATION COPY

Foreperson of Grand Jury

Date: 5-7-09

VERDICT

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

FINE CARD MADE

8. TRAFFIC VIOLATION COPY

Foreperson of Petit Jury

Date:

2012 APR 10 AM 9:14
M. ROSE J. ACHLEY

MARC KITCHENS

2012 MAY 13 PM 4:52

JURY

WITNESSES

SPTG CO SHERIFF'S OFFICE

[Signature]

ARREST WARRANT NUMBER

M110371

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: 5-7-09

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

09-GS-42-2694

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 11 2009

TERM

THE STATE
vs.

Gregory Danny Price

Indictment for

POSSESSION OF COCAINE BASE
(CRACK COCAINE)

SC Code: 44-53-375

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

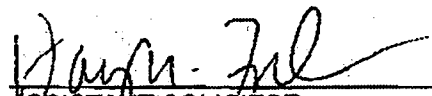
At a Court of General Sessions, convened on MAY 07 2009 the

Grand Jurors of Spartanburg County present upon their oath:

POSSESSION OF COCAINE BASE (CRACK COCAINE)

That Gregory Danny Price did in Spartanburg County on or about January 13, 2009, possess or attempt to possess a quantity of Cocaine Base (Crack Cocaine), a schedule II controlled substance, in violation of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

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



ASSISTANT SOLICITOR

WITNESSES

DOCKET NO.

09-GS-42-2697

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 11 2009

TERM

THE STATE

VS.

Gregory L. Price

FTA BW to remain active.

Chad Graham 4/9/12

Indictment for

DISTRIBUTION OF COCAINE BASE AND/OR CRACK COCAINE

SC Code: 44-53-375

1. SENTENCE MADE

2. REPORT FILED

SPTG CO SHERIFF'S OFFICE

3. CARD FILED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND FINE CARD MADE

8. TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

1. SENTENCE MADE

2. REPORT FILED

3. CARD FILED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND FINE CARD MADE

8. TRAFFIC VIOLATION COPY

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 5-7-09

1. SENTENCE MADE

2. REPORT FILED

3. CARD FILED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

Foreperson of Petit Jury

Date:

7. ASSESSMENT AND FINE CARD MADE

8. TRAFFIC VIOLATION COPY

MAINT KITCHENS

APR 10 11 45 AM

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2012 APR 10 AM 9:15
M. J. B. ACHLEY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

MAY 07 2009

At a Court of General Sessions, convened on _____, the

Grand Jurors of Spartanburg County present upon their oath:

DISTRIBUTION OF COCAINE BASE AND/OR CRACK COCAINE

That Gregory Danny Price did in Spartanburg County on or about October 20, 2008, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine Base and/or Crack Cocaine, a schedule II controlled substance under provisions of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

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



ASSISTANT SOLICITOR

WITNESSES

1. SENTENCE MADE ☒

2. REPORT ENDED ☒

3. CASE FILED ☒

SPTG CO SHERIFF ☒

4. CHECKED WARRANT ☒

5. CHECKED SIGNATURE ☒

6. ASSESSMENT AND FINE CARD MADE ☒

7. TRAFFIC VIOLATION COPY ☒

ARREST WARRANT NUMBER

1. SENTENCE MADE

2. REPORT ENDED

3. CASE FILED

4. CHECKED WARRANT

5. CHECKED SIGNATURE

6. ASSESSMENT AND FINE CARD MADE

7. TRAFFIC VIOLATION COPY

M110010

ACTION OF GRAND JURY

1. SENTENCE MADE

2. REPORT ENDED

3. CASE FILED

4. CHECKED WARRANT

5. CHECKED SIGNATURE

6. ASSESSMENT AND FINE CARD MADE

7. TRAFFIC VIOLATION COPY

Foreperson of Grand Jury

Date: 5-7-09

VERDICT

Foreperson of Petit Jury

Date:

DO NOT NO **09-GS-42-2698**

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 11 2009

TERM

THE STATE

vs.

Gregory Danny Price

~~FTA~~ Bb to remain active.

Chad Graham

Chad Graham

4/9/12

Indictment for

DISTRIBUTION OF COCAINE BASE AND/OR CRACK COCAINE

SC Code: 44-53-375

M. HONE BACILEY

2012 APR 10 AM 9:14

MARC KITCHENS

2012 APR 10 PM 4:52

J. Turley
SPTG CO SHERIFFS OFFICE

ARREST WARRANT NUMBER

M110010

ACTION OF GRAND JURY

True Bill
Shinder
person of Grand Jury
date: 5-7-09

VERDICT

person of Petit Jury
e:

03-43-42-2648

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 11 2009

TERM

THE STATE
vs.

Gregory Danny Price

Indictment for
DISTRIBUTION OF COCAINE BASE AND/OR
CRACK COCAINE

SC Code: 44-53-375

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAY 07 2009 the

Grand Jurors of Spartanburg County present upon their oath:

DISTRIBUTION OF COCAINE BASE AND/OR CRACK COCAINE

That Gregory Danny Price did in Spartanburg County on or about December 17, 2008, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine Base and/or Crack Cocaine, a schedule II controlled substance under provisions of § 44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

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


ASSISTANT SOLICITOR

WITNESSES

1. SPTBG CO. SHERIFF'S OFFICE

2. SPTBG CO. SHERIFF'S OFFICE

3. SPTBG CO. SHERIFF'S OFFICE

4. SPTBG CO. SHERIFF'S OFFICE

5. SPTBG CO. SHERIFF'S OFFICE

6. SPTBG CO. SHERIFF'S OFFICE

7. ASSOCIATED FINE

8. TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

M-118603

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

15-GS-42-2773

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 01 2015

TERM

THE STATE

vs.

GREGORY DANNY PRICE

Indictment for

FORGERY < \$10,000

SC Code: 16-13-10

CDR Code: 3436

Class FEL/F

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

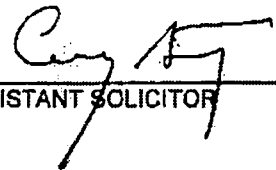
MAY 29 2015

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

FORGERY < \$10,000

That GREGORY DANNY PRICE did in Spartanburg County on or about December 12, 2009, knowingly and with the intent to defraud: (1) falsely make, forge, counterfeit, cause or procure to be falsely made, forged, or willfully act or assist in the false making, forging or counterfeiting of any writing or instrument of writing; and/or (2) utter or publish as true any false, forged, or counterfeited writing or instrument of writing; and/or (3) willingly act or assist in any of the above activities, an amount less than \$10,000.00, said writing or instrument of writing being: check number 1064, in the amount of \$142.69, drawn on the account of Rodney Booker, in violation of §16-13-10(A), *THE CODE OF LAWS OF SOUTH CAROLINA (1976), as amended.*

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


ASSISTANT SOLICITOR

GRADY ANTHONY

1. SENTENCE **WITNESSES**

2. RETURNED

SPTBG. CO. SHERIFF'S OFFICE

4. RETURNED

5. RETURNED

6. RETURNED

7. RETURNED

8. TRAFFIC VIOLATION COPY

DOCKET NO.

15-GS-42-2775

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 01 2015

TERM

ARREST WARRANT NUMBER

M-118602

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

THE STATE
vs.

GREGORY DANNY PRICE

Indictment for

FORGERY < \$10,000

SC Code: 16-13-10

CDR Code: 3436

Class FEL/F

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

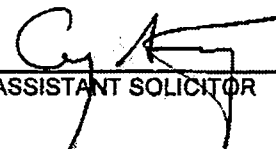
MAY 29 2015

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

FORGERY < \$10,000

That GREGORY DANNY PRICE did in Spartanburg County on or about December 15, 2009, knowingly and with the intent to defraud: (1) falsely make, forge, counterfeit, cause or procure to be falsely made, forged, or willfully act or assist in the false making, forging or counterfeiting of any writing or instrument of writing; and/or (2) utter or publish as true any false, forged, or counterfeited writing or instrument of writing; and/or (3) willingly act or assist in any of the above activities, an amount less than \$10,000.00, said writing or instrument of writing being: check number 1079, in the amount of \$169.00, drawn on the account of Rodney Booker, in violation of §16-13-10(A), *THE CODE OF LAWS OF SOUTH CAROLINA (1976)*, as amended.

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


ASSISTANT SOLICITOR

GRADY ANTHONY