

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Beaufort County

Honorable Diane Schafer Goodstein, Circuit Court Judge

MICHAEL E. HAWKINS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-001547

APPENDIX

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INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT DATED APRIL 18, 2013	1
APPLICATION FOR POST-CONVICTION RELIEF	26
AMENDED POST-CONVICTION RELIEF APPLICATION.....	35
RETURN AND PARTIAL MOTION TO DISMISS AND MOTION FOR A MORE DEFINITIVE STATEMENT.....	38
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JUNE 4, 2018	46
PLAINTIFF'S EXHIBIT NO. 1 (STATEMENT).....	93
ORDER OF DISMISSAL.....	97
INDICTMENTS	110
SENTENCE SHEETS	124

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT } GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA)

STATE,)

TRANSCRIPT OF RECORD

12-GS-07-721

12-GS-07-722

12-GS-07-723

12-GS-07-724

v.)

12-GS-07-763

MICHAEL HAWKINS,)

12-GS-07-764

DEFENDANT.)

12-GS-07-923

April 18, 2013
Beaufort, South Carolina

BEFORE :

THE HONORABLE CARMEN T. MULLEN, JUDGE

APPEARANCES:

MARY CONCANNON, ESQ.
Assistant Solicitor

CHRISTOPHER W. LEMPESIS, JR., ESQ.
Attorney for Defendant

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

INDEX

	Page
Voir dire of defendant	4
Facts by the assistant solicitor	16
Remarks by the victim	20
Mitigation remarks by Mr. Lempesis	20
Remarks by the defendant	22
Sentence of the Court	23

(There were no exhibits submitted.)

1 THE COURT: The case of the State of South
2 Carolina versus Eric Mack, Veronica Mack, Robert
3 Lane and Michael Hawkins is on next week's trial
4 roster. There was a motion to sever that I heard
5 that I have denied, and so the case is going forward
6 as of Monday. It's my understanding that some
7 defendants, if not all, are interested in entering a
8 plea today. Is that correct, Ms. Campbell?

9 MS. CAMPBELL: That's correct, Your Honor.
10 On behalf of Eric Mack I'd like to inform the Court
11 that Eric Mack is prepared to enter his guilty plea
12 today to the charges. He has signed the sentencing
13 sheet and is prepared to stand before Your Honor
14 this morning.

15 THE COURT: Okay. I think just out of
16 abundance of caution we will take them separately,
17 Ms. Campbell, if you don't mind, unless you have any
18 great preference. I understand that we're gonna end
19 up having duplicating some facts; but again, I think
20 it will all be on the record so we should be fine.
21 Is that all right with you?

22 MS. CAMPBELL: Okay.

23 THE COURT: So you want to go ahead and go
24 forward with Mr. Mack first?

25 MS. CAMPBELL: We'll be happy to step

1 forward.

2 THE COURT: Come on forward, Mr. Mack.

3 (Plea of Mr. Mack was taken.)

4 THE COURT: All right, you want to go
5 ahead and come forward, sir. You're Michael
6 Hawkins, sir?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: How old are you, sir?

9 THE DEFENDANT: 24.

10 THE COURT: How far did you go in school?

11 THE DEFENDANT: College.

12 THE COURT: What did you study in college?

13 THE DEFENDANT: Automotive tec.

14 THE COURT: Did you graduate?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Do you have any children?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Are you married?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: And you're from Charleston; is
21 that correct, sir?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: All right, sir. Mr.

24 Lempesis — oh, I'm sorry, go ahead and swear him
25 in, Cassandra, I'd appreciate it.

1 THE CLERK OF COURT: Would you raise your
2 right hand for me, please.

3 WHEREUPON,

4 MICHAEL HAWKINS,
5 having been duly sworn by the Clerk of Court,
6 testified as follows:

7 THE CLERK OF COURT: Put down your hand.

8 THE COURT: Mr. Lempesis, have you
9 explained, does your client understand the charges
10 against him, the possible punishment, and his
11 constitutional rights?

12 MR. LEMPESIS: Yes, Your Honor.

13 THE COURT: Mr. Hawkins, do you wish to
14 plead guilty under North Carolina versus Alford to
15 burglary in the first degree, two counts of
16 kidnapping, one count of possession of a weapon
17 during the commission of a violent crime, criminal
18 conspiracy, assault and battery of a high and
19 aggravated nature, and armed robbery?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Mr. Lempesis, based on your
22 investigation does the State have adequate evidence
23 to prove your client's guilt on all these charges
24 beyond a reasonable doubt?

25 MR. LEMPESIS: Yes, ma'am.

1 THE COURT: Under North Carolina versus
2 Alford, sir, is that correct?

3 MR. LEMPESIS: Yes, ma'am, Your Honor.
4 With that caveat we'd like to plead under North
5 Carolina v. Alford; and also, I can go into some
6 discussion that we touched on at another point in
7 the plea if you'd like.

8 THE COURT: Okay, thank you. It's my
9 understanding, Mr. Lempesis, that based on your
10 investigation and everything you've seen, you do
11 think there could be adequate evidence or would be
12 adequate evidence to prove your client guilty on all
13 these charges which is why your client is going
14 forward and pleading under North Carolina versus
15 Alford.

16 MR. LEMPESIS: Yes, ma'am, I think there's
17 adequate evidence to support a conviction.

18 THE COURT: All right.

19 MR. LEMPESIS: Yes, ma'am.

20 THE COURT: And Mr. Hawkins, you need to
21 appreciate that pleading under North Carolina versus
22 Alford is simply a guilty plea as well and you
23 understand it's gonna go down as a guilty plea. You
24 understand that, sir?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: All right, sir. Sir, have you
2 taken any medication or drank any alcohol in the
3 last 24 hours?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Do you suffer from any mental
6 or physical condition that would prevent you from
7 understanding what we're doing here today?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Sir, I'm gonna go through each
10 of the indictments just as I did with Mr. Mack; I
11 know you were sitting in the courtroom. And again,
12 I'm gonna ask you if you understand the charges
13 against you and if you wish to plead guilty to them
14 under North Carolina versus Alford, all right, sir?
15 Okay. The first one is 2012-720, it's for burglary
16 in the first degree. It states that you did in
17 Beaufort County on or about March 19th of 2012, did
18 unlawfully enter the dwelling of Loretta and Laron
19 Jackson located at [REDACTED] on Saint
20 Helena without their consent with intent to commit a
21 crime therein and that you either did it during the
22 darkness hours or while armed with a deadly weapon.
23 And of course, as we've explained in the last case,
24 as in yours, there is the legal theory of the hand
25 of one is the hand of all. You all went together

1 and based on what you or your co-defendants did, it
2 can be imputed to you, that if one brought a gun or
3 if one did something specifically, that because you
4 all conspired to go commit this burglary that you're
5 all guilty under that, and you're pleading guilty
6 until North Carolina versus Alford. Do you
7 understand that, sir?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: And understanding that, sir,
10 do you still wish to plead guilty under North
11 Carolina versus Alford to burglary in the first
12 degree?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Sir, the next indictment is
15 for kidnapping, and actually, it's the next two
16 indictments. These indictments state that you did
17 in Beaufort County on or about March 19th of 2012
18 did unlawfully seize, confine, or carry away both
19 Laron Jackson and Loretta Jackson. Sir, do you
20 understand the charges contained in these two
21 indictments?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And how do you wish to plead
24 to them, guilty or not guilty?

25 THE DEFENDANT: Guilty.

1 THE COURT: Are you pleading guilty to
2 those charges because you are, in fact, guilty?

3 THE DEFENDANT: Yes, I'm guilty.

4 THE COURT: All right, sir. I need to
5 explain to you, and I apologize, I should have told
6 you. You understand that pleading guilty to
7 burglary in the first degree carries a mandatory
8 minimum sentence of 15 years and up to life in
9 prison, do you understand that?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Additionally, sir, it is a
12 violent offense which means that you're gonna serve
13 a minimum of 85 percent of any sentence I give you
14 on that charge, do you understand that?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Additionally, sir, it is a
17 most serious offense. It means that once you get
18 out of prison, if you commit a second or most
19 serious offense you are going to be looking at life
20 without the possibility of parole. Do you
21 understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And understanding that do you
24 still wish to plead guilty?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: All right. As to the
2 kidnapping charges, it carries up to 30 years in
3 prison. Do you understand that, sir?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Again, you understand those
6 are violent charges and most serious charges. Do
7 you understand that?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: All right, sir. The next
10 indictment is for possession of a weapon during the
11 commission of a violent crime. This indictment
12 states that you did in Beaufort County on or about
13 March 19th of 2012 did while armed, or one of your
14 co-defendants was armed with a deadly weapon, did
15 commit or attempt to commit a violent crime which
16 includes burglary in the first degree, armed
17 robbery, kidnapping, or assault and battery of a
18 high and aggravated nature. Sir, do you understand
19 the charge contained in this indictment?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: And do you wish to plead
22 guilty to it under North Carolina versus Alford?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And understanding that, sir,
25 do you still wish to plead guilty under North

1 Carolina versus Alford?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: All right, sir, possession of
4 a weapon during the commission of a violent crime
5 carries up to five years in prison. Do you
6 understand that?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Sir, you're also pleading
9 guilty to criminal conspiracy. This indictment
10 states that you did in Beaufort County on or about
11 March 19th of 2012 did conspire with others for the
12 purpose of committing a burglary first degree, armed
13 robbery, kidnapping, and assault and battery of a
14 high and aggravated nature. Sir, do you understand
15 the charge contained in this indictment?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And do you wish to plead
18 guilty to it under North Carolina versus Alford?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Sir, you understand criminal
21 conspiracy carries up to five years in prison?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: And understanding that, sir,
24 do you still wish to plead guilty?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: You're also pleading guilty to
2 assault and battery of a high and aggravated nature.
3 This indictment states that you did in Beaufort
4 County on or about March 19th of 2012 did
5 unlawfully, or commit, or under the hand of one is
6 the hand of all theory an assault and battery
7 constituting unlawful injury to Laron Jackson. Sir,
8 do you understand the charge contained in this
9 indictment?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And do you wish to plead
12 guilty to it under North Carolina versus Alford?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Lastly, sir, you are pleading
15 guilty under North Carolina versus Alford to armed
16 robbery. This indictment states that you did on
17 March 19th of 2012 in Beaufort County at [REDACTED]
18 [REDACTED] at Saint Helena did by force, threats, or
19 intimidation and while armed with deadly weapon, did
20 take and carry away goods and/or moneys from the
21 person or immediate presence and house of Loretta
22 and Laron Jackson with the intent to permanently
23 deprive them of their property. Do you understand
24 the charge contained in this indictment?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And do you wish to plead
2 guilty to this indictment under North Carolina
3 versus Alford?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Sir, you understand I could
6 run these sentences consecutively which means one
7 after the other and you'd be looking at 120 —
8 excuse me, life plus 120 years in prison?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And understanding that do you
11 still wish to plead guilty?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Under North Carolina versus
14 Alford. Sir, you have the right to have a jury
15 trial on this case. Do you understand you are
16 scheduled for a jury trial coming up on Monday, do
17 you understand that, sir?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Sir, at a jury trial you have
20 the right to testify or not testify on your own
21 behalf. And if you chose not to testify I'd tell
22 the jury they couldn't hold it against you.
23 However, sir, when you plead guilty you're waiving
24 that right. You understand you're coming forward
25 and you're telling the Court that you are guilty

1 under North Carolina versus Alford. Do you
2 understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Also, sir, were you to go to a
5 jury trial your attorney Mr. Lempesis would have the
6 ability to cross-examine the State's witnesses as
7 well as present witnesses in your defense. You
8 could also attempt to suppress various evidence.
9 Again, I want to make sure you understand that
10 you're gonna have convictions for all of these
11 charges under North Carolina versus Alford just as
12 if a jury of twelve people convicted you. Do you
13 understand that?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And understanding all that do
16 you still wish to plead guilty?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Sir, are you completely
19 satisfied with how Mr. Lempesis has represented you?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Has he done everything you've
22 asked him to do?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Have you understood all your
25 conversations with him?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Has he done anything you did
3 not want him to do?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Sir, has anyone promised you
6 anything or held out any hope of reward to get you
7 to plead guilty here today?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Has anyone pressured you or
10 threatened you or told you now to plead guilty?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Has anyone from law
13 enforcement or the Solicitor's Office mistreated you
14 in any way regarding these charges?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Have you understood all my
17 questions?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And have you been truthful in
20 your responses to the Court?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: You have the right to appeal
23 this guilty plea and the sentence of this Court but
24 you must do so within ten days of today's date. If
25 you can't afford an attorney for an appeal one will

1 be appointed for you at no cost to you, but you must
2 request it. Do you understand that, sir?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: All right, sir.

5 Solicitor, if you'll just put the facts
6 again briefly on the record.

7 MS. CONCANNON: Yes, Your Honor. On
8 March 19th, 2012 at around, between 3:30 and 4
9 Mr. Hawkins along with Mr. Mack, Mr. Anderson,
10 Mr. Lane entered the house located [REDACTED]
11 [REDACTED] on Saint Helena Island here in Beaufort County.
12 They were wearing bandannas to obscure their
13 identity at which point he and his co-defendants
14 bound the two occupants Ms. Loretta Jackson and
15 Laron Jackson using duct tape. They then began
16 taking items from the home and making rather
17 taunting statements to the victims. Ms. Jackson is
18 very vehement that Mr. Hawkins began mocking her
19 when she began praying for her life, and this has
20 really stuck with her. Mr. Jackson was able to free
21 himself from his restraints, jump out the second
22 story balcony and get help. By the time law
23 enforcement arrived to [REDACTED] the
24 defendants, including Mr. Hawkins, had fled in a van
25 that Mr. Hawkins had -- let's just go with borrowed

1 from his girlfriend in North Charleston. She
2 initially reported that van stolen by Mr. Hawkins,
3 but that was found to be unfounded so it's believed
4 that he borrowed his girlfriend's van from North
5 Charleston. Mr. Mack was driving the van.

6 They were stopped at the base of Woods
7 Bridge. They then led police on a many mile car
8 chase reaching top speeds of 140 miles per hour
9 ultimately in being in the area of Dale in Beaufort,
10 South Carolina. Mr. Hawkins was one of the two who
11 fled when the car was ultimately stopped.
12 Subsequently -- during this car chase, Your Honor,
13 on the video you can see where a AK-47 is tossed
14 while the car is going over a hundred miles per hour
15 on to Highway 17. That was collected. But
16 Mr. Hawkins was able to run from the car. Perimeter
17 was set up. Several hours after the car chase had
18 ended Mr. Hawkins was spotted walking down the road
19 in Dale. And then when law enforcement got there
20 it -- they discovered he had entered into a elder
21 care facility that's located in Dale. They asked
22 several residents of that facility, hey, have you
23 seen a man; and they're like, there's the guy you're
24 looking for. He was standing in the lobby wet from
25 his waist down in his pants.

1 He's transported to the investigator's
2 office, mirandized, waived his Miranda. He states
3 that he had gotten a ride with a friend, an Erin
4 Jones, who every effort has been made to locate
5 Mr. Jones and it does not appear that he exists.
6 That Mr. Jones and he got into a fight, and he
7 walked from Saint Helena to where he was located in
8 Dale, which is roughly a 30, 35-mile walk. He was
9 located southbound, more further south than north
10 from where the ra-- the chase ended. And when asked
11 how he walked so far having never been to Beaufort
12 before and why he was walking on the wrong side of
13 the road, he said he had a good sense of direction.
14 And when asked to describe things that he saw while
15 on his walk he stated he saw McDonalds at the
16 bridge.

17 THE COURT: Mr. Hawkins, do you plead
18 guilty under North Carolina versus Alford to the
19 facts as stated by the Solicitor?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: I find a substantial factual
22 basis for this plea, that your decision to plead
23 guilty is made freely and voluntarily, knowingly and
24 intelligently with the consent of competent counsel
25 with whom you tell me you're satisfied and I am

1 gonna accept your plea.

2 Ms. Concannon, the AK-47 that was thrown
3 out of the van, was that something that you believe
4 they carried to the robbery with them or was that
5 stolen from the house?

6 MS. CONCANNON: They brought it with them
7 to the robbery. My victims state that they did see
8 a larger weapon which we believe to be the AK-47.

9 THE COURT: And were there guns stolen
10 from the victim's home as well?

11 MS. CONCANNON: There was, I believe, a
12 gun stolen.

13 THE COURT: A gun?

14 MS. CONCANNON: And it was actually
15 located in the van, and the clip was separate from
16 the gun, and that's how we could tell it was a
17 different gun from the victim.

18 THE COURT: What type of gun was it?

19 MS. CONCANNON: Which, the one that was
20 stolen?

21 THE COURT: The one that was stolen from
22 the home.

23 MS. CONCANNON: It was a handgun. I
24 believe it was a 9-millimeter handgun. A
25 9-millimeter handgun —

1 THE COURT: Okay. Okay, thank you.

2 MS. CONCANNON: —that belonged to a
3 deceased uncle.

4 THE COURT: Okay, all right. I have heard
5 from the victims. If they would like to speak again
6 they are welcome to; I certainly have heard you.
7 Mr. and Mrs. — I apologize, Ms. Jackson and your
8 son, unless you want to say anything further, ma'am.

9 THE VICTIM: I stand before you again,
10 Your Honor. This voice will be a voice that always
11 will be embedded in my mind. When I close my eyes I
12 can hear the voice so I just hope that justice is
13 done because my life is shaken, it's torn.

14 THE COURT: Thank you.

15 Mr. Lempesis.

16 MR. LEMPESIS: Thank you, Your Honor. You
17 know, Your Honor, I've had a chance to talk with
18 Mr. Hawkins a good bit. We've — we're on a first
19 name basis, and I've gotten to know Michael really
20 well. You know, he's an intelligent person. He is
21 a sensitive and caring person. He has a family that
22 he cares about. He's got family in North
23 Charleston.

24 This is a bad situation obviously based on
25 the facts. And in terms of the facts as to

1 Mr. Hawkins, the reason that he's come before you
2 under North Carolina v. Alford is that, you know,
3 Mr. Hawkins has maintained his innocence but agrees
4 and acknowledges that there are enough facts to
5 support a conviction. And we have discussed, for
6 instance, the idea of the voice identification the
7 victim just referenced in her statement. We've
8 discussed that in context, in the context of a Neil
9 v. Biggers hearing. I've explained that to
10 Mr. Hawkins. He's aware of the fact that there may
11 be some question as to the admissibility of these
12 sort of later identifications; but weighing
13 everything together, Mr. Hawkins has decided that he
14 wants to take a guilty plea under North Carolina v.
15 Alford for the very reason that he does not want to
16 face the exposure of 120 years plus life and
17 essentially take a gamble under the facts as
18 presented by the State.

19 That said, you know, Mr. Hawkins is 24
20 years old. As you know he's from North Charleston.
21 He was in school studying automotive tec and hopes
22 to continue to do that. I think that having an
23 opportunity to put this bad situation behind him is
24 going to allow him to move forward and he is looking
25 at significant time. However, he is still gonna

1 have the opportunity to have a life and that's what
2 we're counting on.

3 We ask that Mr. Hawkins not be required to
4 register as a sex offender as there is no sexual
5 component to the kidnapping charges. We ask that
6 Your Honor sentence him to 15 years total, that the
7 burg first be sentenced under the mandatory minimum,
8 and that all of the charges fall in line and to run
9 concurrent such that his sentence does not exceed 15
10 years total. We ask that he receive credit for time
11 served. We ask, if possible and if it's in the
12 judge's control, that Mr. Hawkins be placed as close
13 as possible to North Charleston, South Carolina. He
14 has by last count, I believe, 13 or 11 nieces and
15 nephews that have been asking where he is and
16 they're gonna need to see him.

17 THE COURT: Mr. Hawkins, what would like
18 to say, sir?

19 MR. LEMPESIS: And Your Honor, he would
20 also like a shaving pass if possible, if you'd
21 address that.

22 THE DEFENDANT: You know, I'm just, I
23 would like to apologize and say, you know, I'm sorry
24 for the situation that happened and, you know, the
25 tragic situation that they were exposed to or

1 whatever. I have a family. I don't want these type
2 events happening to them either, you know what I'm
3 saying so, I'd like to say I'm sorry with everything
4 that happened with the case or whatever.

5 THE COURT: All right. Anything further,
6 Mr. Lempesis?

7 MR. LEMPESIS: No, ma'am.

8 THE COURT: Indictment 2012-720, it is for
9 burglary in the first degree violent. The sentence
10 of this Court is you be committed to the Department
11 of Corrections for a period of 15 years. Indictment
12 2012-721 for kidnapping, the sentence of this Court
13 is you be committed to the Department of Corrections
14 for a period of 15 years, and I'm putting on here
15 that there is no sex registry as there's no sexual
16 component to the kidnapping. Indictment 2012-923
17 for kidnapping, the sentence of this Court is you be
18 committed to the Department of Corrections for a
19 period of 15 years. Again, there is no sexual
20 registry. There is a finding of the Court that
21 there's no sexual component.

22 Indictment 2012-764 for possession of a
23 weapon during the commission of a violent crime, the
24 sentence of this Court is you be committed to the
25 Department of Corrections for a period of 5 years.

1 Indictment 2012-723, criminal conspiracy, the
2 sentence of this Court is you be committed to the
3 Department of Corrections for a period of five
4 years. Indictment 2012-722 for assault and battery
5 of a high and aggravated nature, the sentence of
6 this Court is you be committed to the Department of
7 Corrections for a period of 15 years. And lastly,
8 under indictment 2012-763 for armed robbery, the
9 sentence of this Court is you be committed to the
10 Department of Corrections for a period of 15 years.
11 Those are to run concurrent to each other, and I'm
12 giving you credit for the time you've served. Good
13 luck to you, sir.

14
15
16 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *
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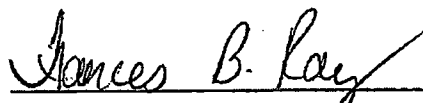
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE }

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 16th day of December, 2013.


FRANCES BAKIS-RAY, RPR

FORM 5

STATE OF SOUTH CAROLINA

County of

Beaufort

IN THE COURT OF COMMON PLEAS

PM 12: 09

2016-CP-07-2544

Michael Hawkins #36547

Full name and prison number (if any) of Applicant

ROSENEAU
CLERK OF COURT

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Allendale Correctional Institution
2. Name and location of Court which imposed sentence General Sessions
Beaufort, SC 29902, 102 Ribault Rd.
3. Name(s) of co-defendant(s) (if any) Jamin Anderson, Eric Mack,
Robert Lane, Veronica Mack
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012GS0700923, 2012GS0700721, 2012GS0700763
 - (b) 2012GS0700720, 2012GS0700722, 2012GS0700723

- (c) 2012GS0700764
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) I got sentenced on 4-18-13
- (b) 15 years, 5 years, 15 years, 15 years, 5 years, 15 years, 15 years
- (c) All ran concurrently
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?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. Beaufort County South Carolina 14th Circuit Judicial Court
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. I was denied in the South Carolina Court of Appeals
- ii. I was denied in the Beaufort County 14th Circuit Judicial Court
- iii. _____
- (c) the date of each such result:
- i. July 17, 2015
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. N/A
- iii. N/A
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) N/A

(c) N/A

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

- (a) ineffective assistance of counsel
 (b) newly discovered evidence
 (c) defective warrants

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

- (a) Motion discovery
 (b) Motion discovery
 (c) Motion discovery

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

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

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

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

(b) the name and location of the Court in which each was filed:

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

(c) the disposition thereof:

i. n/a

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. n/a

ii. _____

iii. _____

iv. _____

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

i. n/a

ii. _____

iii. _____

iv. _____

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

no

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

(a) which grounds have been presented:

i. n/a

ii. _____

iii. _____

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

i. n/a

ii. _____

iii. _____

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) I wanted to preserve my grounds for
 (b) PCR.
 (c) _____

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

(a) your arraignment and plea? Yes
 (b) your trial, if any? _____
 (c) your sentencing? _____
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (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. Christopher Lempesis
P.O. Box 43, Beaufort, SC 29901
 ii. Benjamin Tripp, Columbia, SC 29211
1330 Lady Street, Suite 401
 iii. David W. Johnson, 215 E. Bay St. Suite 405
Charleston, SC 29401
 (b) the proceedings at which each such attorney represented you:
 i. Christopher Lempesis - My plea
Benjamin Tripp - Motion for Reconsideration
 ii. David W. Johnson - Bond hearing
 iii. _____

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

New trial / dismissal of charges

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

No

STATE OF SOUTH CAROLINA)

County of Beaufort)

VERIFICATION

I, Michael Hawkins, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this _____
day of _____, _____.

Notary Public (L.S.)

My Commission Expires: _____

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

I, Michael Hawkins, 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.

Michael Hawkins
Applicant

SWORN or affirmed to and subscribed before me this
21st day of November, 2016.

Debbie McCasky
Notary Public

My Commission Expires: July 10, 2024



MAC | VANCE ATTORNEYS, LLC

May 29, 2018

Beaufort County Clerk of Court
ATTN: PCR's
PO Box 1128
Beaufort, SC 29901-1128

Re: Michael E. Hawkins, #316547 v. State of South Carolina
2016-CP-07-02544

Dear Ms. Roseneau:

Please find enclosed an Amended Post-Conviction Relief Application and Certificate of Service for the above-referenced matter. Kindly file this document. Please note that because this is a PCR matter, it cannot be file electronically.

Should you have any questions, I can be reached at the number listed below or at ashley@macvance.com

Best regards,

ASHLEY A. MCMAHAN
ATTORNEY AT LAW

AAM

cc: Michael E. Hawkins
AAG Christian A. Saville

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	FOR THE 14 th JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	Case No.: 2016-CP-07-02544
Michael E. Hawkins, #316547,	)	
	)	
Applicant,	)	AMENDED POST-CONVICTION
	)	RELIEF APPLICATION
v.	)	
	)	
State of South Carolina.	)	

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on December 1, 2016, to add the following allegations:

1. Ineffective assistance of counsel as to Christopher W. Lempeis, Jr., Esquire:

A. Failed to properly explain circumstantial evidence to the Applicant.

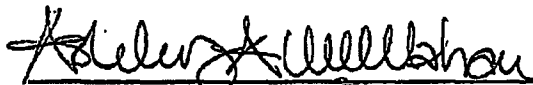
B. Failure to adequately address the fact that the victims initially indicated that they could point out who the alleged perpetrators were, but really only knew Eric Mack. Trial counsel did not ask the victims about this and the victims later on indicated they did not know who the perpetrators really were.

C. Trial counsel did not adequately address the distance between the locations involved in the case or address that the Applicant was not in the car, as reflected in the video.

D. Codefendant's charge in Charleston County that was ultimately dropped, was used against the Applicant in his bond hearing.

Applicant further requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



ASHLEY A. MCMAHAN, ESQUIRE
 MAC | VANCE ATTORNEYS, LLC
 PO Box 5501
 West Columbia, SC 29171
 803-219-1110
 ashley@macvance.com
 SC Bar No. 71676
 ATTORNEY FOR APPLICANT

May 29, 2018

CERTIFICATE OF SERVICE

I certify that I have served this document via email to:

Christian A. Saville
 Assistant Attorney General
 csaville@scag.gov
 fourteenthcircuitpcr@scag.gov

This 29th Day of May, 2018.



ASHLEY A. MCMAHAN, ESQUIRE
 Attorney for Applicant



ALAN WILSON
ATTORNEY GENERAL

August 3, 2017

The Honorable Jerri Ann Roseneau
Clerk of Court - Beaufort County
PO Box 1128
Beaufort, SC 29901-1128

Re: Michael Hawkins, #316547 v. State of South Carolina
2016-CP-07-2544

Dear Ms. Roseneau:

Enclosed please find the original **Return and Partial Motion to Dismiss and Motion for a More Definitive Statement** of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,

Ruston W. Neely
Assistant Attorney General

RWN/jaj
Enclosure

cc: Ashley A. McMahan, Esquire

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE NINTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
	)	
Michael Hawkins, #316547,	)	Case No.: 2016-CP-07-2544
	)	
Applicant,	)	
	)	
v.	)	RETURN AND PARTIAL MOTION
	)	TO DISMISS AND MOTION FOR A
	)	MORE DEFINITE STATEMENT
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on December 1, 2016, would respectfully show this Court:

I. PROCEDURAL HISTORY

The facts supporting the underlying charges are as follows: On March 19, 2012, Applicant and his co-defendants entered a residence, bound the occupants, and began taking items. One individual was able to free himself, jump out a window, and get help. By the time police arrived, Applicant and his co-defendants had fled in a van. Law enforcement eventually attempted to stop the car, which resulted in a high-speed car chase. When the car eventually stopped, Applicant and one other individual fled on foot. Applicant was eventually spotted walking down the road in another area. When law enforcement arrived, they discovered he had subsequently broken into an elder care facility. Police found him inside and arrested him for the underlying charges.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Beaufort County Clerk of Court. In April 2012, the Beaufort County Grand Jury indicted Applicant for two counts of kidnapping (2012-GS-07-0923; -0721), burglary, first degree (2012-GS-07-0720), assault and battery of a high and aggravated nature (ABHAN)

(2012-GS-07-0722), criminal conspiracy (2012-GS-07-0723), armed robbery (2012-GS-07-0763), and possession of a weapon during the commission of a violent crime (2012-GS-07-0764). Christopher W. Lempeis, Jr., Esquire, represented Applicant. Assistant Solicitor Mary Cocannon, Esquire, prosecuted the case. On April 18, 2013, Applicant pleaded guilty as indicted, pursuant to Alford¹, to all charges before the Honorable Carmen T. Mullen. Judge Mullen sentenced Applicant to imprisonment for concurrent terms of fifteen years for each kidnapping charge, burglary, first degree, ABHAN, and armed robbery. Judge Mullen also sentenced Applicant to concurrent terms of five years for criminal conspiracy and possession of a weapon during the commission of a violent crime. Applicant subsequently filed a Motion to Vacate Or in the Alternative To Withdraw the Guilty Plea. On May 13, 2013, Judge Mullen issued an order denying the motion.

Applicant filed a timely notice of appeal. Benjamin John Tripp, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on June 22, 2016. State v. Hawkins, Op. No. 2012-UP-326 (S.C. Ct. App. filed June 22, 2016). The remittitur was returned to the circuit court on July 8, 2016.

Attached to this Return and incorporated by reference are the records of the Beaufort County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, Applicant's appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II. ALLEGATIONS

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

¹ North Carolina v. Alford, 400 U.S. 25 (1970).

1. "Ineffective Assistance of Counsel"
 - a. "Motion Discovery"
2. "Newly Discovered Evidence"
 - a. "Motion Discovery"
3. "Defective Warrants"
 - a. "Motion Discovery"

III. INEFFECTIVE ASSISTANCE OF COUNSEL

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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

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

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

IV. NEWLY DISCOVERED EVIDENCE

Respondent submits that Applicant's claim of alleged “newly discovered evidence” fails to make a prima facie showing that he is in actual possession of new evidence and that the new evidence likely would have changed the outcome at trial. While under S.C. Code § 17-27-45(c), a newly-discovered evidence claim can be timely raised within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence could have been ascertained, Applicant has failed to set forth with any specificity how it would have affected the outcome if used at trial or why such alleged evidence was not readily discoverable at the time of trial or his previous PCR action. Before the Court will hold an evidentiary hearing, Applicant must make a prima facie showing that he is entitled to relief. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Applicant has failed to make such a prima facie showing that he is entitled to relief based on the information set forth and, therefore, he is not entitled to an evidentiary hearing in the matter. Accordingly, Respondent submits that this allegation

be summarily dismissed.

Respondent submits that this allegation is similarly barred by the doctrine of *res judicata*. *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 189, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id.; *see also* Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981).

Applicant had a full opportunity to litigate all his allegations in his prior actions. Applicant's present allegations are indistinguishable from those offered in his prior applications for post-conviction relief. Applicant's complaint of "newly discovered evidence" was argued in his motion to vacate his guilty plea, as well as in his direct appeal. The South Carolina Court of Appeals issued a final judgement on the merits on very same issue that Applicant now raises in his present action. The finality of the previous Court rulings should be respected, and the application should be summarily dismissed as barred by the doctrine of *res judicata*.

V. DEFECTIVE WARRANTS

Respondent requests that the claim of "defective warrants" be dismissed for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. §17-27-10 to -160. An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;

5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20.

“Defective warrants” is not a claim cognizable under the act. Applicant is not collaterally attacking his guilty plea or sentence. Applicant’s contention that such a ground is impliedly created by S.C. Code Ann. § 17-27-90 is meritless, as that section does not pertain to *what* may be raised, but *how* valid grounds must be raised.

Even if the facts alleged by Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. PCR relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). These issues are improper for post-conviction relief because they could have been raised on direct appeal and are procedurally barred by S.C. Code Ann. §17-27-20(b) (2003). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). For these reasons and pursuant to Rule 12(b)(6), SCRCP, the Court should dismiss the Application for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

VI. AMENDMENTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments received within 10 day of

an evidentiary hearing will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCPP. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCPP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCPP.

VII. MOTION FOR A MORE DEFINITE STATEMENT

Respondent also hereby moves for a more definite statement in regards to Applicant's claim of ineffective assistance of plea counsel. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VIII. PARTIAL MOTION TO DISMISS

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

MICHAEL HAWKINS, #316547

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent,

IN THE COURT OF COMMON PLEAS

2016-CP-07-2544

AFFIDAVIT OF SERVICE BY MAIL

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

Ashley A. McMahan
 Mac | Vance Attorneys, LLC
 PO Box 5501
 West Columbia, SC 29169

DATED this the 3rd day of August, 2017.

Jennifer Jennison
 Jennifer Jennison, Legal Assistant
 For Respondent

State of South Carolina	)	Court of Common Pleas
	)	14 th Judicial Circuit
County of Beaufort	)	Case No. 2016-CP-07-02544
	)	
Michael E. Hawkins,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Defendant.	)	
	)	

June 4, 2018
Beaufort, South Carolina

B E F O R E:

The Honorable Diane Schafer Goodstein, Judge

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

Ashley McMahan, Esquire
Attorney for the Plaintiff

Christian Saville, Esquire
Attorney for the Defendant

Krystal J. Smith
Circuit Court Reporter

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
Motion for Continuance.....	4
Michael Hawkins	
Direct by Ms. McMahan.....	9
Cross by Mr. Saville.....	21
Redirect by Ms. McMahan.....	23
Christopher W. Lempesis	
Direct by Ms. McMahan.....	24
Cross by Mr. Saville.....	38
Arguments of Counsel.....	43
Court Reporter Certification.....	47

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
P-1	Affidavit of Eric Mack		13

COURT REPORTER LEGEND

dashes -- intentional or purposeful interruption
or change in thought

ellipses . . . trailing off

[ph] phonetically written

[sic] written as said

1 JUNE 4, 2018

2 (WHEREUPON, the proceedings began at 1:23 p.m.)

3 THE COURT: Are you ready?

4 MS. MCMAHAN: There's an issue that my client would like
5 to bring up before we begin or that my client would like me
6 to bring up to the Court before we begin.

7 THE COURT: And that issue is?

8 MS. MCMAHAN: He would like to ask for a continuance in
9 this case.

10 THE COURT: Okay.

11 MS. MCMAHAN: We have an affidavit by a gentleman named
12 Eric Mack, who is his co-defendant. He would like Mr. Mack
13 here to testify, although understanding that 17-27-80 allows
14 the Court to accept evidence by affidavits.

15 Also, there's another co-defendant he wanted to have
16 here to testify named Veronica Mack, who is Eric's -- Eric's
17 wife; right? Yeah, who is Eric's wife. She was never -- I
18 have not subpoenaed her or even know her whereabouts, but
19 that's -- that was his basis for his request for a
20 continuance.

21 THE COURT: Okay.

22 MR. SAVILLE: Your Honor, the State would have to
23 respectfully object. I think this has been rostered at least
24 -- I know it was rostered in January, and we haven't -- we
25 haven't heard of such materials that he wishes to present.

1 And so for those reasons, we do not -- we respectfully do not
2 think a continuance would be appropriate right now.

3 THE COURT: So was it continued in January?

4 MS. MCMAHAN: It was continued -- when was the last
5 term? October?

6 THE COURT: January.

7 MR. SAVILLE: January.

8 MS. MCMAHAN: It was continued in January because -- a
9 lot of that is due to trying to get conferences set with the
10 prisons. It's incredibly arduous and step consuming to get
11 there, and I have not had the ability to communicate with Mr.
12 Hawkins pretty much at all at that point. Although I had set
13 several things, it just never materialized by the time you
14 actually try to communicate through the prison system. So
15 that was the basis for the continuance.

16 THE COURT: And would you represent as an officer of the
17 Court that those two witnesses are critical witnesses in this
18 matter?

19 MS. MCMAHAN: If the Court is willing to accept the
20 affidavit under 17-27-80, then I believe --

21 THE COURT: Is there any -- I'll ask is there objection
22 from the State?

23 MR. SAVILLE: That -- that would be in the Court's
24 discretion, Your Honor. We -- we would object because we
25 would like the opportunity to cross-examine, should this be

1 admitted.

2 THE COURT: There you go. If he wants to cross-examine
3 and he's not present and -- so if the State wants to cross-
4 examine, I would -- I would be inclined not to limit their
5 ability to cross-examine.

6 And would you say that the gentleman for who you have
7 the affidavit is a critical witness or essential witness,
8 necessary witness?

9 MS. MCMAHAN: For the basis of that affidavit, yes.

10 THE COURT: Yes? All right. All right.

11 MR. SAVILLE: Your Honor, the State -- the State would
12 be prepared to not object to the affidavit if it avoids a
13 continuance.

14 THE COURT: All right. What about that?

15 MS. MCMAHAN: If the State is not going to object, then
16 I don't have a problem with that.

17 THE COURT: Okay. In other words -- but there's another
18 witness you wanted.

19 MS. MCMAHAN: Veronica Mack.

20 THE COURT: Yeah.

21 MS. MCMAHAN: But I'm not -- I haven't spoken to her. I
22 don't -- Mr. Hawkins this morning told me just right now --

23 THE COURT: Uh-huh.

24 MS. MCMAHAN: -- that he would like her here.

25 THE COURT: Okay.

1 MS. MCMAHAN: But I haven't --

2 THE COURT: And based upon your review of the case, is
3 she someone that ought be here in order for him to have a
4 full hearing on his PCR?

5 MS. MCMAHAN: Honestly, I think that if we go forward
6 with Mr. Mack's affidavit and then the testimony of Mr.
7 Lempesis, I think that would get the answers out that Mr.
8 Hawkins wants on the record.

9 THE COURT: Okay. All right. Very well. Then it will
10 be denied.

11 MS. MCMAHAN: With -- with the understanding that for
12 some reason if we need to hold the record open again --

13 THE COURT: Oh, we're not doing that. Huh-uh.

14 MS. MCMAHAN: Can I have one minute to discuss it?

15 THE COURT: Sure.

16 (WHEREUPON, there was a pause in the proceedings, after
17 which the proceedings resumed as follows.)

18 MS. MCMAHAN: We're prepared to go forward, Your Honor.

19 THE COURT: Okay. Very well. Yes?

20 MR. SAVILLE: May it please the Court, Your Honor.

21 THE COURT: Yes.

22 MR. SAVILLE: This is Michael Hawkins versus the State
23 of South Carolina, Docket Number 2016-CP-07-2544.

24 Mr. Hawkins was indicted for two counts of kidnapping,
25 one count of burglary first degree, one count of assault and

1 battery of a high and aggravated nature, criminal conspiracy,
2 armed robbery, and possession of a weapon during the
3 commission of a violent crime in April of 2012.

4 Mr. Christopher W. Lempesis, Jr., Esquire, represented
5 him. Assistant Solicitor Mary Buchanan, Esquire, prosecuted
6 the case.

7 The applicant pled guilty as indicted on April 18th,
8 2013, before the Honorable Carmen T. Mullen, and Judge Mullen
9 sentenced him to imprisonment for concurrent terms of 15
10 years for each kidnapping, burglary, ABHAN, and armed robbery
11 charge. She also sentenced him to a concurrent term of five
12 years for criminal conspiracy and for possession of a weapon
13 during the commission of a violent crime.

14 The applicant subsequently filed a motion to vacate or
15 in the alternative withdraw the guilty plea. On May 13th,
16 2013, Judge Mullen issued an order denying this motion.

17 The applicant did file a timely notice of appeal.
18 Benjamin John Tripp, Esquire, of the Office of Appellate
19 Defense perfected the appeal, and the South Carolina Court of
20 Appeals affirmed on June 22nd, 2016. The remittitur was
21 issued on July 8th, 2016.

22 Mr. Hawkins filed an application for PCR on December 1st,
23 2016, and an amendment on May 29th, 2018. The applicant is
24 present today and represented by Ashley A. McMahan, Esquire.

25 THE COURT: All right.

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 MR. SAVILLE: Thank you.

2 THE COURT: Yes?

3 MS. MCMAHAN: Yes, Your Honor. The applicant would call
4 Michael Hawkins to the stand.

5 THE COURT: Sure.

6 THE CLERK: Raise your hand. Do you solemnly swear or
7 affirm to truthfully answer all questions asked of you by
8 this Court, so help you God?

9 THE APPLICANT: Yes, ma'am.

10 THE CLERK: Could you state your name for the record,
11 please?

12 THE APPLICANT: Michael Hawkins.

13 THE CLERK: And spell your last name?

14 THE APPLICANT: H-a-w-k-i-n-s.

15 THE CLERK: Thank you, sir.

16 MICHAEL HAWKINS, being first
17 duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. MCMAHAN:

20 Q: Mr. Hawkins, did you file this PCR application?

21 A: Yes, ma'am.

22 Q: Okay. So you have in here a couple of different
23 allegations, but let's just start with your first one. So
24 we're talking about ineffective assistance of counsel, Mr.
25 Lempesis; is that correct?

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 A: Yes.

2 Q: And what are your specific allegations against Mr.
3 Lempesis?

4 A: Well, given what -- given what all of my charges, there
5 was actually no -- no evidence that actually points directly
6 to me --

7 Q: Okay.

8 A: -- beside the fact that they are trying to hide me under
9 this hands of one/hands of all.

10 And being that there's no DNA that relates me to this --
11 to the actual crime scene or to -- or to the witnesses
12 involved to this crime, like me seeing that right there, he
13 never delved deep into that right there as far as my case.
14 He never filed any motions, as far as this moving forward for
15 any of those charges being that I was never --

16 THE COURT: You are going to have to slow way down for
17 my court reporter.

18 THE APPLICANT: All right.

19 BY MS. MCMAHAN:

20 Q: So let's just back up and take them individually then.

21 So you were talking about there was no DNA. Well, there
22 was a van involved, wasn't there?

23 A: There was. There was a van involved. I never disputed
24 coming up there in a van.

25 Q: You never what?

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 A: I never disputed coming up there in a van.
2 Q: Okay. So you never disputed coming up?
3 A: Coming to Beaufort in a van.
4 Q: Okay.
5 A: Like I said, we came in and helped Eric Mack move.
6 Q: So you never disputed that you had been in the van
7 earlier that day to help them move?
8 A: Yeah.
9 Q: And where did they live that you were helping them move?
10 A: If I'm not mistaken, Peppermint Lane.
11 Q: Okay. So when there was DNA found in the van --
12 A: Yeah.
13 Q: -- why was that?
14 A: Because I'm already was in -- I already was in the van.
15 This is -- this is the van that we frequently used.
16 Q: How often did you guys use it?
17 A: Like, every other day. This is not, like, a random van.
18 This is a van that we frequently used.
19 Q: What kind of van was it?
20 A: I'm pretty sure there's multiple DNA samples in that
21 van. It wasn't just me and my co-defendants.
22 Q: Okay. How often did you guys -- like, you said you
23 frequently used it. Like, what did you typically use it for?
24 A: Like, I might go to work in the van. We might just go
25 over there and just go out to eat in the van, like just

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 different purposes.

2 Q: Okay. What did the van look like?

3 A: It's a gray -- it was a gray Chrysler van.

4 Q: Okay. So you never disputed you were in the van based

5 on the DNA being there anyway?

6 A: Yeah.

7 Q: And then so you had -- there was no DNA on the weapons.

8 What was that issue?

9 A: If I'm -- if I'm going to be charged for a weapons

10 charge, that should be able to be related to the weapon-- to

11 the weapon in -- in question; right?

12 Q: So do you mean there was -- none of your DNA or anything

13 was found on the weapons?

14 A: No DNA or no fingerprints whatsoever.

15 Q: Okay. No fingerprints? Okay. So you -- you brought an

16 affidavit from Eric Mack. Who is Eric?

17 A: That's my co-defendant.

18 Q: And how did your family get that letter from Mr. Mack?

19 A: He mailed it to them.

20 Q: I'm going to show you this. Did you have a copy of

21 this?

22 A: Yeah.

23 Q: What is that?

24 A: This is Eric Mack's statement.

25 Q: Okay. And this is what he mailed your family?

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 A: Yeah.

2 Q: And this is the original?

3 A: Yeah.

4 MS. MCMAHAN: Your Honor, at this time, I would like to
5 mark and enter that as Applicant's 1.

6 THE COURT: And have you showed it to the State?

7 MS. MCMAHAN: Yes, Your Honor.

8 THE COURT: All right.

9 MR. SAVILLE: Yes, Your Honor.

10 THE COURT: All right. And no objection?

11 MR. SAVILLE: No objection, Your Honor. I apologize.

12 THE COURT: That's okay.

13 MR. SAVILLE: Okay.

14 (WHEREUPON, Plaintiff's Exhibit Number 1, affidavit of
15 Eric Mack, was admitted into evidence.)

16 BY MS. MCMAHAN:

17 Q: So how many of you guys were involved in the
18 prosecution?

19 A: There was five of us altogether.

20 Q: And did Mr. Lempesis ever explain to you what you could
21 get for every -- for all the charges you were facing?

22 A: No.

23 Q: So he never told you that you could get life without
24 parole and all that?

25 A: No.

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 Q: Did he ever tell you that you could end up getting more
2 or less than your other co-defendants?

3 A: No. He never told me that.

4 Q: And what do your -- did your other co-defendants end up
5 getting?

6 A: Two -- two other co-defendants -- they received 15 years
7 and the other two -- they received five years -- five or six
8 years.

9 Q: Okay. And who were the two that received the five
10 years? Do you remember?

11 A: Robert Lane and Veronica Mack.

12 Q: Okay. And how were they involved with the whole
13 situation?

14 A: From what the prosecution said, they said that Veronica
15 was supposed to be, like, the head person or something like
16 that, and then they said that Robert Lane was supposed to be
17 on the scene somehow at the crime.

18 Q: Okay.

19 A: But that's another issue right there for me right there
20 too because, like I said, there's -- there's actual dash-cam
21 footage of the actual -- of the police chase and, if you look
22 at it, there is -- there is never no footage of me on the
23 video chase.

24 And from the prosecution's story, they're basically
25 saying that the crime happened and there was a -- there was a

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 police chase, but if I'm not in that vehicle, there's no way
2 to relate me to that crime, period, if I'm not even on the
3 footage of the dash-cam.

4 Q: If Mr. Lempesis had explained to you that you could get
5 more or less than your co-defendants, would you have gone --
6 would you have pled guilty or would you have gone to trial?

7 A: I still would have went to trial.

8 Q: Okay. Did Mr. Lempesis explain to you what
9 circumstantial evidence was?

10 A: No.

11 Q: Do you know what the difference between circumstantial
12 and direct evidence is?

13 A: No.

14 Q: How many times did you meet with him?

15 A: Maybe, like, three times.

16 Q: Did you have an attorney before him?

17 A: Yeah. I had David Johnson.

18 Q: Okay. And then you got Mr. Lempesis after that?

19 A: Yeah.

20 Q: What was the issue about the victims not being able to
21 point out who everybody was?

22 A: I mean that was -- that was the biggest issue right
23 there because the whole time during the whole process of the
24 case, they were basically saying that they could -- they
25 could identify the people -- the people involved in the case.

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 Q: Why was that?

2 A: They said off the voices or whatever, but, like I said,
3 another part of my case was the fact that in my -- in my
4 initial interrogation, I was basically asking for a photo
5 lineup because they said they had -- they had witnesses and
6 victims in my case. So I was asking for a photo lineup on
7 the audio.

8 Q: Okay. So you wanted them to be able to try to identify
9 you through your voice?

10 A: No. I'm talking about as soon as I got arrested --

11 Q: Okay.

12 A: -- I was asking for a photo lineup because they said
13 that there were victims. I knew -- I knew I didn't have
14 anything to do with this crime; so I was asking for a photo
15 lineup.

16 Q: So you wanted a photo lineup so that the -- because you
17 felt like the victims couldn't point you out?

18 A: I know -- I know they couldn't because I never was
19 involved in this -- this crime. They gave my co-defendant
20 one, but they never gave me one.

21 Q: Okay. Which co-defendant?

22 A: I think it was Eric Mack. They gave him a photo lineup.
23 They gave him a photo lineup. They placed him in a photo
24 lineup.

25 Q: Okay. So what was the issue between the distance

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 between the two locations?

2 A: What do you mean? Like, what --

3 Q: That you felt like Mr. Lempesis didn't adequately
4 address the distance involved between the location of the
5 burglary and where you were located?

6 A: Oh, yeah. That's another thing. Like I said, there was
7 a big difference because of the fact that, like I said, if
8 you are going to place me in a hands of one/hands of all
9 case, you should be able to place me on either one of those
10 scenes, either the scene of the police chase or either the
11 scene of the actual crime scene.

12 Q: Were you ever involved in the police chase?

13 A: I was never involved in the police chase. Like I said,
14 there's the dash-cam footage of every -- everyone who was
15 arrested. They even have footage of someone who was -- who
16 did leave out the van, but it's clear that that person wasn't
17 me though.

18 Q: How come?

19 A: Off the physical appearance of the person.

20 Q: Okay. Why? Is that person shorter than you? Smaller
21 than you?

22 A: Shorter, lighter than me.

23 Q: Lighter skinned?

24 A: Yeah. Lighter skinned.

25 Q: And that was the person that jumped out?

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 A: Yeah.

2 Q: Who ultimately was that person?

3 A: It was Robert Lane.

4 MR. SAVILLE: I apologize, Your Honor. Could I -- could
5 I just hear that -- hear that answer one more time? I'm
6 sorry.

7 MS. MCMAHAN: Who ultimately was that person?

8 MR. SAVILLE: Right.

9 BY MS. MCMAHAN:

10 Q: Who was -- who was the person?

11 A: It was Robert Lane.

12 MR. SAVILLE: Oh, okay.

13 MS. MCMAHAN: Robert Lane.

14 MR. SAVILLE: Thank you.

15 BY MS. MCMAHAN:

16 Q: And what was the issue about your co-defendant's charge
17 in Charleston being dropped, but it was used against you at
18 your bond hearing?

19 A: The fact that they were -- they were basically throwing
20 this out there the whole time in the process of my case that
21 I had a stolen vehicle charge, but the fact that the -- the
22 case with that charge right there -- it was a conflict of
23 interest with the -- with the current case I'm on right now.

24 Q: Uh-huh.

25 A: And being that he never used that in my defense was --

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 was a big fact on me still being incarcerated on this same
2 crime right here because it was a big time for me. They were
3 basically saying I was in Charleston stealing this van, but I
4 was also in Beaufort breaking into somebody's house.

5 Q: So you -- was the stolen van charge against you or
6 somebody else?

7 A: It was against me.

8 Q: In Charleston?

9 A: Yeah, it was. It was against me in Charleston.

10 Q: Okay. And so your assertion would be there's no way you
11 could be stealing the car in Charleston and also be in
12 Beaufort?

13 A: And also be in Beaufort.

14 Q: Okay. What happened to that charge in Charleston?

15 A: Somehow it got throwed out at the last minute. I didn't
16 even know when it got throwed out exactly.

17 Q: Was that used against you at your bond hearing?

18 A: It was used against me at all hearings.

19 Q: How long into your case was it thrown out?

20 A: Like, at the very last minute.

21 Q: Okay. So the issue with the victims and not knowing who
22 you were, where all did that come up again?

23 A: That came up again after -- after I was sentenced to my
24 time, but it came up in -- at Veronica Mack's and Robert
25 Lane's pretrial hearing or whatever that was.

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 Q: Are you talking about the pretrial hearing where the
2 victims state that they thought they could identify people by
3 their voice?

4 A: Yeah.

5 Q: Okay. And what -- do you remember -- when did you find
6 out about that or how did you find out about that?

7 A: Like, until afterwards, until after I got my time.

8 Q: Okay. Who told you about it?

9 A: I think I read -- I think I read it in my -- in my
10 transcript.

11 Q: Okay. Or in your appeal? Did you read it in your
12 appeal that --

13 A: Yeah, appeal.

14 Q: -- your attorney sent to you?

15 A: Yeah.

16 Q: Okay. And what was the form that Mr. Lempesis was
17 wanting you to sign off on?

18 A: I guess for me to -- to not come back to court, I guess.

19 Q: Okay. What else do you want the Court to know today?

20 A: I mean that's basically everything right there, but,
21 like I said, like, the hands of one/hands of all -- if you're
22 going to say hands of one/hands of all, I would at least have
23 to be at one of the scenes or any one of those particular
24 places.

25 Q: Okay. And had Mr. Lempesis explained all of this to

MICHAEL HAWKINS - DIRECT BY MS. MCMAHAN

1 you, you would have wanted to go to trial and not plead
2 guilty?

3 A: Yes.

4 Q: Okay. So Mr. Saville is going to ask you some
5 questions.

6 A: All right.

7 THE COURT: Yes, sir?

8 CROSS-EXAMINATION

9 BY MR. SAVILLE:

10 Q: Good afternoon, Mr. Hawkins. Thank you for being here
11 today.

12 Now, Mr. Hawkins, do you remember swearing to tell the
13 truth when you pled guilty?

14 A: Yeah.

15 Q: Okay. And do you recall telling the judge that you were
16 completely satisfied with your attorney's services?

17 A: Yeah. I do remember that.

18 Q: And do you remember telling the judge that you -- that
19 your attorney had done everything you asked of him?

20 A: Yeah. At that time, I thought that was true.

21 Q: And do you remember telling the judge that your attorney
22 had not done anything that you didn't want him to?

23 A: At that time, I thought that was true.

24 Q: Okay. Did you understand all your conversations with
25 your attorney?

MICHAEL HAWKINS - CROSS BY MR. SAVILLE

1 A: Not -- not necessarily.

2 Q: Do you remember telling the plea judge that you

3 understood all your conversations with your attorney?

4 A: Yes.

5 Q: Now, do you recall waiving your right to a jury trial?

6 A: Yes, I do recall that.

7 Q: And do you recall waiving your right to try to suppress

8 evidence?

9 A: No, I don't recall waiving evidence.

10 Q: Okay.

11 MR. SAVILLE: And for the record, that is page 14, line

12 4, of the transcript, Your Honor.

13 BY MR. SAVILLE:

14 Q: Now, did you provide your attorney with an alibi?

15 A: With an alibi? No, I didn't provide him with an alibi.

16 Q: Okay. And you understand that if you proceed to trial

17 on these charges and you're found guilty, you could very well

18 be sentenced to life?

19 A: Yes, I understand.

20 Q: Okay. And are you upset that your co-defendants

21 received lighter sentences than you?

22 A: No, I'm not upset about that right there.

23 Q: Okay. But you just recently testified when Ms. McMahan

24 was questioning you that you would have proceeded to trial if

25 you would have known that your co-defendants would have

MICHAEL HAWKINS - CROSS BY MR. SAVILLE

1 gotten lesser sentences?

2 A: No. I would have proceeded to trial if I had knew my --
3 my -- my real options.

4 Q: Okay. And who owned the van that was in question?

5 A: I think it was Sonya. Sonya. I forgot her last name.
6 Sonya.

7 Q: Okay. Was she your girlfriend?

8 A: No, she was my friend.

9 Q: Your friend? Okay.

10 A: Y'all -- you guys, the prosecution, said that was my
11 girlfriend.

12 Q: Okay.

13 MR. SAVILLE: That's all the questions I have for this
14 witness. Thank you, sir.

15 THE COURT: All right. Redirect?

16 REDIRECT EXAMINATION

17 BY MS. MCMAHAN:

18 Q: Did Mr. Lempesis ever explain to you the option that
19 your co-defendants could get more or less than you if they
20 pled guilty?

21 A: Yes. He did explain that.

22 Q: Oh, he did? Okay.

23 A: He did explain that.

24 MS. MCMAHAN: All right. Nothing further, Your Honor.

25 THE COURT: All right. Any recross?

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 MR. SAVILLE: No, Your Honor. Thank you.

2 THE COURT: All right. Yes, sir, you can come on down
3 back to your table. Thank you.

4 Call your next witness, please.

5 MS. MCMAHAN: Your Honor, the applicant calls Mr.
6 Lempesis.

7 THE COURT: All right.

8 THE CLERK: Do you solemnly swear the truth -- to
9 truthfully answer all questions asked of you by this Court,
10 so help you God?

11 THE WITNESS: Yes, ma'am.

12 THE CLERK: Please state your name for the record.

13 THE WITNESS: Christopher W. Lempesis.

14 THE CLERK: And spell your last name.

15 THE WITNESS: L-e-m-p-e-s-i-s.

16 THE CLERK: Thank you, sir.

17 THE COURT: All right.

18 CHRISTOPHER W. LEMPESIS, being
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. MCMAHAN:

22 Q: Did you represent Mr. Hawkins?

23 A: Yes, ma'am.

24 Q: How long did you represent him for?

25 A: Oh, gosh. Maybe a year and a half, something like that.

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 Q: Was he ever out on bond or was he in the jail?

2 A: He was in the jail. Mr. Johnson represented Michael
3 first or Mr. Hawkins first.

4 Q: Uh-huh.

5 A: And I was appointed thereafter.

6 Q: Do you remember how many times you might have met with
7 him?

8 A: I do have a different recollection. I mean I --
9 honestly, I recall at least ten times and spending some
10 pretty lengthy amounts of time talking to Mr. Hawkins.

11 To be honest, he's a really good guy. He's very
12 thoughtful, intelligent. I got to know him pretty well, I
13 felt like.

14 Q: What was the issue with the DNA?

15 A: The issue with the DNA -- you know, I had a problem with
16 this. Mr. Hawkins and I talked about a lot of this stuff,
17 and I think we agree on some of this.

18 That the DNA issue with the van was that, you know,
19 sure, Mr. Hawkins never disputed being in the van. In fact,
20 he said, yeah, you know, I was in the van, and that was part
21 of our approach was to say that to try to remove the DNA from
22 -- you know, from being some sort of mysterious or hocus-
23 pocus kind of approach that the State could have to say, oh,
24 we've got DNA.

25 Well, the point was he was in the van because, you know,

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 he knew Sonya and, sure, but that was not a problem. And so
2 that was one of the ways that we were handling that issue
3 that the State wanted to make so much about.

4 But initially, we opposed -- I don't know if Mr. Hawkins
5 remembers, but I think if we look back at the record, we'll
6 recall that there was a Schmerber hearing and we were pretty
7 hard-core about not letting them get a sample and, you know,
8 we went after that initially, but then decided that it didn't
9 have to matter because we had a perfectly good reason for why
10 he would have been in the van.

11 Q: And if you had gone to trial, was that something that
12 you would have raised?

13 A: I mean we would have renewed it to the extent that it
14 was an option, but I don't know that at that point it was
15 even -- the way that we decided to -- to handle that was just
16 to say, yeah, fine, he was in the van. That was okay, not a
17 big deal. So I don't even know that we would have renewed it
18 at that point.

19 Q: Okay.

20 A: Because it just wouldn't have -- I don't think it
21 would've helped and I think it would have more so emphasized
22 the fact that there was a chase with the van, as opposed to,
23 you know, Mr. Hawkins having an absolutely, totally
24 legitimate reason having been in the van.

25 Q: So let's talk about the chase with the van. What's up

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 with the dash-cam video?

2 A: So, I looked at the dash-cam video and did not come to
3 the same conclusion that it was clear, you know, that you
4 could tell that it wasn't Mr. Hawkins.

5 And the problem that we had was that even without --
6 with or without the dash-cam information, Mr. Hawkins was
7 found in very close proximity to where the chase ended, and
8 he was found in an old folks' home, soaking wet.

9 And we discussed the fact that, you know -- or, you
10 know, I recall discussing the fact with Mr. Hawkins that they
11 couldn't say for sure, definitively, that he was inside the
12 van in the chase, but they could put him very close by, which
13 we also discussed the fact that that's not enough to suggest
14 that he was, you know, in the van at the time. It was just
15 simply part of this set of circumstances that, you know,
16 taken together, you know, seemed problematic for Mr. Hawkins.

17 And, you know, that's part of the -- the problem that I
18 had with this case was that, you know, there wasn't really a
19 whole a lot of direct evidence. That, you know, I didn't
20 think that there was any sort of direct evidence that was
21 just so amazing and mind blowing so as to put Mr. Hawkins in
22 the van at the time of the chase, like actually there, aside
23 from his DNA, which we had a reason to deal with or a way to
24 deal with.

25 And then also, aside from whatever issues might have

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 come up, you know, in terms of identification, aside from
2 those voice identification issues, there was no way to put
3 him in the house until later on one of his co-defendants told
4 my investigator that he saw Mr. Hawkins walking out, but the
5 State didn't know that and they didn't have that information;
6 so that was not something that they would have known about
7 going in unless they had actually had to examine my
8 investigator.

9 So that was the biggest problem with the case is that it
10 was so circumstantial. It really was. And I -- and I differ
11 with Mr. Hawkins in that, you know, I think that we talked
12 about a lot of those things, but I do not recall --
13 personally, I don't recall talking to Mr. Hawkins and saying
14 you've got a chance of getting a lot more time than your co-
15 defendants. So I thought I failed to have that discussion
16 with him.

17 Q: So you --

18 A: And I think if I had had that discussion that he would
19 have not pleaded guilty and I think he would have gone to
20 trial.

21 Q: So let's back up. So you said you did talk a lot about
22 those things and, by those things, you mean the
23 circumstantial issues?

24 A: I did. I think we did discuss those at length.

25 Q: So I mean you weren't necessarily defining

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 circumstantial for him? You were using more like -- like
2 examples?

3 A: Yeah. I mean my -- my general approach would have been
4 to initially define it.

5 Q: Uh-huh.

6 A: But I don't think that's very useful for most people.
7 In fact, I don't think it's very useful for me a lot of times
8 either. So, you know, I generally try to introduce a concept
9 by way of the actual nomenclature, what the name of it is,
10 what it means in a technical sense, and then I try to give
11 examples or explain it.

12 So I would say that I most likely did that and I'm
13 fairly confident that I did, but, you know, either way, I
14 just don't think that that -- personally, I felt like Mr.
15 Hawkins' decision was more based on -- his decision to plea
16 was more based on a sense of fairness that he was being
17 treated the same as his other co-defendants, and I don't
18 think that he was treated that way.

19 And I also think that if he had known that there
20 could've been such a difference that I don't think he would
21 have taken the plea. Despite what he said today, I don't
22 think so, but that's just my recollection.

23 Q: So let's back up a little bit.

24 A: Okay.

25 Q: So you said that you don't recall having a conversation

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 with him about the fact that his co-defendants could end up
2 with totally different sentences?

3 A: I don't recall that. I really don't. I don't think
4 that -- you know, I think that I hit on everything else that
5 I can -- that I heard Mr. Hawkins testify here about. I
6 recall those things.

7 I don't recall explaining that he could end up in such a
8 very different position than his co-defendants, which is what
9 happened. I don't think that I went into that discussion
10 with him and I think that if I had, I don't think that he
11 would have taken that plea.

12 Q: But in those disparate sentences, they didn't really
13 happen until right after his?

14 A: Right. That's right.

15 Q: And so that was something that nobody found out about
16 was even a possibility until -- I mean it was a possibility
17 that you didn't explain per se, but you didn't think it was
18 actually going to be executed in such a manner until
19 afterwards?

20 A: I mean that's true. Yes, that's -- that's true, but,
21 you know, here again, I do think that, you know, if he had
22 had the benefit of a more wide understanding, you know, I
23 don't think he would have agreed to do the plea. I think he
24 would have chosen to go forward with trial because, you know,
25 in our -- his and my discussions, you know, Mr. Hawkins has

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 always maintained his innocence. He's always stood by that.

2 We talked about the fact that there was enough -- in my
3 viewpoint, there was enough evidence to support a finding of
4 guilt, and that was why we wanted to do an Alford plea.

5 That's why we did an Alford plea.

6 There was a Neil v. Biggers issue. We discussed that at
7 the time of the plea. If you look at the transcript, you'll
8 see reference to my having said that on the record that we
9 reviewed -- you know, that I reviewed that with Mr. Hawkins.

10 But here again, after all these discussions and getting
11 to know this man, you know, fairly as well as a lawyer can
12 get to know a client in this situation, I just -- you know, I
13 feel like he took the plea under some -- without the proper
14 instruction in terms of the differences that could have
15 resulted between he and his co-defendants, and I don't -- I
16 don't think that was fair to him.

17 Q: Did Mr. Mack ever get in touch with you directly about
18 anything with Mr. --

19 A: No. Mr. -- so Mr. Mack was represented by Trasi
20 Campbell and, you know, predictably, Trasi refused to let me
21 talk to Mr. Mack or my investigator talk to him, but I stayed
22 after Trasi on that. And then after Mr. Mack did his plea,
23 my investigator came and met with Mr. Mack and Ms. Campbell
24 present. And I actually read -- I think that was Mr. Mack's
25 statement that I read earlier.

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 Q: Yeah.

2 A: That was my investigator that talked to Mr. Mack. It
3 wasn't me, but, you know, the investigator went at my
4 direction to talk to Mr. Mack to get whatever information
5 because, at that point, Mr. Hawkins had already -- he had
6 already entered the plea, but he had decided -- he directed
7 me to -- you know, to attempt to withdraw the plea and I
8 said, well, if nothing else, we can also try to make a good
9 record for purposes of appeal.

10 If you want to try to appeal it, we will do as much as
11 we can, you know, from that standpoint to kind of keep things
12 moving in case there's something that you can grab a hold of
13 that you're successful with. So yes, I sent the investigator
14 to talk to Mr. Mack.

15 Q: Okay. And then this -- but this statement -- this is
16 the first you've ever heard of this statement?

17 A: Yeah. This morning was the first I've ever heard of it
18 or whenever it was that you showed me that today.

19 Q: Okay. And then going back to the Alford plea, when
20 explaining all of that to Mr. Hawkins, did he indicate to you
21 that he felt like everybody was sort of getting the same
22 thing in the sentence or -- because one person had already
23 pled; right?

24 A: Right. Right. And my impression from -- from Mr.
25 Hawkins is that he was out of a sense of fairness saying,

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 okay. You know, I think I remember him saying something
2 like, all right, Chris, you know, if they think they got me,
3 maybe -- maybe that's fine, but I'm getting what so-and-so is
4 getting and I'm getting what so-and-so is getting.

5 I said, well, you know, I can't speak to that, but it's
6 likely y'all are going to get -- y'all are going to be
7 treated basically the same is my -- is my guess. And that is
8 absolutely not what happened, and I do think that factored
9 into his decision. I mean I do.

10 And the other issue though on the alibi thing, I wanted
11 to mention that we did actually offer to an extent an alibi
12 defense because Mr. Hawkins' position the whole time was that
13 he was asleep when all this had gone on. And so we offered
14 that as somewhat of an alibi defense to say that we weren't
15 -- that Mr. Hawkins wasn't present when the crime was being
16 committed.

17 And the problem that we had was that the owner of the
18 van was saying that, you know, sometime early morning hours
19 Mr. Hawkins came and forcibly took the van from her and then
20 drove it down here, and that's where I -- where it was found.
21 And my investigator -- I sent the investigator up to North
22 Charleston, and he timed the drive.

23 Q: Uh-huh.

24 A: And also looked for witnesses that would say that Mr.
25 Hawkins left at 9 o'clock at night like he had told me that

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 he did, and we couldn't find anybody that would say that.
2 All we found -- he found -- he talked to Mr. Hawkins' sister
3 maybe is my recollection. Somebody that said that Mr.
4 Hawkins had left at, you know, like one or two in the
5 morning, which was enough time to just get to the house to
6 perpetrate the crime, which I didn't -- I didn't like that
7 obviously from the standpoint of defending it and the point
8 was, you know, was it possible that Mr. Hawkins was doing
9 something to the contrary?

10 Well, when we got the information about his sister
11 contradicting what he had told me, we then started talking
12 about whether or not he was going to testify and what he was
13 going to testify to and that sort of thing. And so we kind
14 of had to back off of a little bit of that, but I do recall
15 trying to construct an alibi defense and basing that on drive
16 times and proximity to the crime and all those sorts of
17 things.

18 Q: Okay. But ultimately, you feel like that wasn't the
19 best avenue to go down?

20 A: Yeah. I mean in knowing that, I mean I think that the
21 van -- the concept of the van and Mr. Hawkins in the way that
22 he was relating to the van -- that was somewhat of a problem,
23 but I think we had a way to explain that. I think that the
24 witness -- one of the co-defendants -- I think it might've
25 been Mr. Mack -- ended up telling my investigator that he was

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 walking to the house and saw Mr. Hawkins and Jayman [ph]
2 walking out, which is obviously a problem for, you know, our
3 position, being that, you know, our argument was that Mr.
4 Hawkins was never even there, that he was asleep.

5 But here again, all those things, I mean those are all
6 circumstantial. And I think that when Mr. Hawkins was
7 weighing all of that, in his mind it was sort of like, look,
8 you know, if I'm being treated the same as everybody else and
9 there's enough to support a conviction, then fine. I'm going
10 to -- you know, I'm going to go ahead and just go forward
11 because I don't want the exposure for life in prison.

12 But when he comes to find out later that it's grossly
13 disproportionate, I mean it just -- you know, I think that
14 had a material impact on his decision.

15 Q: Did you see any issues with the warrants?

16 A: I don't recall seeing issues with the warrants, but, you
17 know, there may have been. I just -- I don't recall that.

18 Q: Was he ultimately indicted?

19 A: I believe so, yeah. Direct -- possibly directly though.

20 Q: Okay. What was the issue about -- he was bringing up
21 earlier about the audio statement he had made?

22 A: You know, I don't -- I remember hearing him say that,
23 and I don't recall that being an issue. My understanding is
24 that, based on my recollection, Mr. Hawkins maintained his
25 innocence. I don't think he ever admitted to anything. I

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 don't think he confessed to anything, is my recollection.

2 Q: So he made a statement to the police?

3 A: I think they attempted to get a statement from him. I
4 think they -- they talked to him. I don't know that they had
5 -- I don't recall right now as I sit here whether or not
6 there was audio.

7 I know there's a transcript, and Mr. Hawkins gave the
8 investigator a -- the police a description. I want to say
9 the guy's -- the guy's name was something like Jones or what
10 have you, and that the police alleged that they followed that
11 lead, you know, that would've corroborated Mr. Hawkins'
12 version of the facts, but they couldn't find this person or
13 something like that. That's -- I believe that's all in his
14 statement, but it's not -- I think it's in an officer's
15 supplemental report based on an audio recording.

16 Q: I believe it's alluded to sort of in the facts of the
17 plea itself?

18 A: Yeah. That's probably accurate. It's been, you know, I
19 believe five years or so, but --

20 MS. MCMAHAN: One moment, Your Honor.

21 THE COURT: All right.

22 BY MS. MCMAHAN:

23 Q: Is there anything else you want to tell the Court today?

24 A: You know, I think -- I hope you don't mind me treading
25 on your ground, but, you know, Ashley and I talked about

CHRISTOPHER W. LEMPESIS - DIRECT BY MS. MCMAHAN

1 this. A case came out last week that I think is important,
2 and I think it basically says, you know, the overwhelming
3 evidence or not is not really as much an issue. It's more
4 so, you know, what factors led to this defendant's decision
5 to plead guilty. What was important to them?

6 And having talked with this man, I think it was
7 important to him, you know, what was going to happen to the
8 group of people. And I think that they ended up getting a
9 widely different sentence, and I don't think that I
10 communicated to Mr. Hawkins clearly enough, you know, what
11 the possibilities were. I didn't explore that enough and I
12 think that if I had, I think that he would have probably
13 chosen to go forward to trial.

14 So to me, that's central and I think in light of that
15 case that came out last week, you know, that's -- I think
16 that's an important discretion of the Court.

17 MS. MCMAHAN: Your Honor, if I could, Mr. Lempesis is
18 referring to the Pryor v. State case that came out on May 23rd
19 --

20 THE COURT: Uh-huh.

21 MS. MCMAHAN: -- 2018 in the Court of Appeals.

22 THE COURT: Yeah.

23 MS. MCMAHAN: I mean in the Supreme Court. Sorry.

24 THE COURT: Got it. Thanks.

25 MS. MCMAHAN: At this point, I am done. I will turn it

CHRISTOPHER W. LEMPESIS - CROSS BY MR. SAVILLE

1 over to Mr. Saville.

2 THE COURT: All right. Cross-examination?

3 MR. SAVILLE: Thank you.

4 THE COURT: Uh-huh.

5 CROSS-EXAMINATION

6 BY MR. SAVILLE:

7 Q: Good afternoon, Mr. Lempesis. Thank you for bearing
8 with me today.

9 A: Yes, sir.

10 Q: Mr. Lempesis, how long have you been practicing criminal
11 law?

12 A: Well, at this point, I try not to practice criminal law
13 at all because I'm mostly in civil. But I mean I've been
14 admitted probably eleven years I'd say.

15 Q: Okay.

16 A: So

17 Q: Now, I understand that you -- and you may -- you may
18 also be aware that Mr. Hawkins raised the issue of disparate
19 sentencing in his direct appeal, after which the conviction
20 was affirmed, but are you aware of what Mr. Hawkins' sentence
21 was in this case?

22 A: My recollection is that it was the mandatory minimum and
23 then everything concurrent. So I think 15.

24 Q: Okay. And are you aware of the sentence of co-defendant
25 Eric Mack?

CHRISTOPHER W. LEMPESIS - CROSS BY MR. SAVILLE

1 A: I'm not.

2 Q: Okay.

3 MR. SAVILLE: Just for the Court's knowledge, that
4 sentence was also 15 years as well.

5 THE COURT: Okay.

6 MR. SAVILLE: It was essentially the same charges.

7 BY MR. SAVILLE:

8 Q: Now, was Mr. Hawkins the last of the co-defendants to
9 plead guilty?

10 A: I -- I do not -- no, I don't think so.

11 Q: Okay.

12 A: And I -- and I could be wrong with this, but I thought
13 that there were two after Mr. Hawkins and that that caused
14 some of the issue, but that's just my recollection.

15 Q: Okay. Do you feel there was enough evidence to support
16 a conviction in this case?

17 A: I think there was enough circum -- yes, enough
18 circumstantial evidence to support a conviction.

19 Q: Were there any other offers? I'm sorry. Were there any
20 other plea offers from the State?

21 A: In terms of Mr. Hawkins?

22 Q: Yes, sir.

23 A: My recollection is no. I think this was slated for, you
24 know, what the State calls their career criminal team or
25 whatever, basically the hardline offer group.

CHRISTOPHER W. LEMPESIS - CROSS BY MR. SAVILLE

1 Q: Okay.

2 A: And, you know, I think it was go to trial and look at,
3 you know, life plus a hundred and something or this -- this
4 is the offer.

5 Q: For the mandatory minimum?

6 A: Yeah.

7 Q: Okay. Now, were any charges dismissed in this case?

8 A: I -- I want to say no because everything was run
9 concurrent. I do think that the North Charleston issue -- I
10 recall discussing this with Mr. Hawkins, but I guess it
11 wasn't clear or he just didn't remember, but we got that
12 dropped because I mean, obviously, you know, the argument
13 was, look, he's pleading guilty to 15 years and y'all can let
14 that go, and the North Charleston Police Department didn't
15 have a problem with that and the solicitor up there didn't
16 have a problem with it. So --

17 Q: Yes, sir. Did Mr. Hawkins have a prior record at this
18 time?

19 A: I mean my recollection is yes, but that could be wrong.
20 I haven't looked at his file in quite a while.

21 Q: Okay.

22 MR. SAVILLE: I beg the Court's indulgence, Your Honor.

23 THE COURT: Okay.

24 BY MR. SAVILLE:

25 A: I will say that on that issue also I do think Mr.

CHRISTOPHER W. LEMPESIS - CROSS BY MR. SAVILLE

1 Hawkins was in school and I recall that he was, you know,
2 actively pursuing an education and he was working up in North
3 Charleston. So he was -- you know, certainly, my impression
4 of him was that he was productive and interested in moving
5 forward in life.

6 Q: Yes. I do recall you putting that on the record at the
7 guilty plea.

8 And you felt that the circumstantial evidence in this
9 case was more important than the identifications?

10 A: We -- you know, we never got to resolve the
11 identification issue. You know, that -- it was -- the issue
12 was out there, we discussed it, and this was another problem
13 I had with the way the case was prosecuted, but the
14 prosecutor basically took the position that if we were going
15 to challenge that, that, you know, we would be doing that in
16 pretrial, in which -- in which case they'd be going forward,
17 which -- which I didn't like.

18 And I thought that was an issue and I talked to Mr.
19 Hawkins about it, and we never actually got to challenge the
20 -- either visual or voice ID, which was -- both of which were
21 at issue but were addressed prior to pleading. At least,
22 with -- I addressed them with Mr. Hawkins as a client prior
23 to plea.

24 Q: Yes, sir. Did any of his co-defendants proceed to
25 trial?

CHRISTOPHER W. LEMPESIS - CROSS BY MR. SAVILLE

1 A: I don't think so.

2 MS. MCMAHAN: I'm sorry. What was your question? I'm
3 sorry.

4 MR. SAVILLE: I just asked if any of his co-defendants
5 proceeded to trial.

6 MS. MCMAHAN: And what was your answer, Mr. Lempesis?

7 THE WITNESS: I don't think so.

8 MR. SAVILLE: Mr. Lempesis, that's all I have. Thank
9 you very much.

10 THE COURT: All right. Redirect?

11 MS. MCMAHAN: I have none, Your Honor. Just a --

12 THE COURT: Okay.

13 MS. MCMAHAN: -- prefilled statement whenever you're
14 ready.

15 THE COURT: Okay. All right. Well, I do.

16 So he got the -- he got the mandatory minimum?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Was this a negotiated plea or was it a
19 recommendation?

20 THE WITNESS: Oh, gosh, Your Honor, I think it was
21 negotiated because I think that was the only reason that I
22 was willing to -- to go before a judge, given the facts.

23 THE COURT: Okay.

24 MR. SAVILLE: That's my understanding is it was
25 negotiated.

1 THE COURT: It was a negotiated? Okay. Okay. All
2 right. Thank you.

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Does that prompt -- if that prompts
5 questions from either one of you, please.

6 (WHEREUPON, there was no verbal response.)

7 THE COURT: All right. Very well. Thank you.

8 THE WITNESS: Thank you. Am I excused, Your Honor?

9 THE COURT: I don't know.

10 THE WITNESS: Okay.

11 THE COURT: I don't have you under subpoena.

12 MS. MCMAHAN: It's not my subpoena. I'm good with him
13 being excused.

14 MR. SAVILLE: Yes, Your Honor. He may be excused.

15 THE COURT: All right. Very well.

16 THE WITNESS: Thank you, Judge.

17 THE COURT: Okay.

18 MR. SAVILLE: Your Honor, just briefly.

19 I think the record reflects through actually both
20 applicant and plea counsel's testimony that a thorough
21 investigation was put into this case that dispelled really
22 any -- any viable alibi defense that may have existed. They
23 sent private investigators to check out the timeline, to
24 check out the distance, to check out the stories.

25 Moreover, applicant testified under oath that he

1 understood his conversations with his plea counsel. He
2 understood the sentencing. He understood he could get up to
3 life and 120.

4 I just don't think there's any prejudice in this case
5 when there was enough evidence to support a conviction, and
6 he got the mandatory minimum.

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

8 MR. SAVILLE: Thank you, Your Honor.

9 MS. MCMAHAN: Your Honor, the issue is not whether or
10 not there's enough evidence to support a conviction. It's
11 whether or not Mr. Hawkins would have gone to trial and not
12 pled guilty.

13 Also, his two co-defendants were actually starting their
14 trial, the pretrial issues. There was a Jackson v. Denno,
15 and then there was an identification issue based on voices.
16 They attempted to try to get those in and they were denied,
17 and it was at that point that his co-defendants pled guilty
18 and got the benefit of a lesser sentence.

19 And that's pretty much all I want to say. I mean
20 whether or not Mr. Hawkins knows -- obviously, he does --
21 what he's facing if he went -- if he is successful in this
22 matter is -- you know, that's his issue, but I believe we've
23 established on the record that he was not advised.

24 THE COURT: Well, obviously, his co-defendants were not
25 charged or did not plea to the -- to the level of crimes that

1 he pled to, yes?

2 MS. MCMAHAN: Yes, that is correct, Your Honor.

3 THE COURT: Okay. All right.

4 MS. MCMAHAN: They were reduced to burglary seconds.

5 THE COURT: Gotcha. And it's a negotiated -- it was a
6 negotiated sentence?

7 MS. MCMAHAN: On his, yes.

8 THE COURT: Right. So how does he say he wouldn't have
9 pled guilty if he -- if he did --

10 MS. MCMAHAN: He wouldn't have pled guilty had Mr.
11 Lempesis explained to him that his co-defendants could end up
12 with a much more disparate sentence.

13 THE COURT: Well, it would be impossible for him to have
14 known that.

15 MS. MCMAHAN: Well, one had already pled and got 15.

16 THE COURT: Okay.

17 MS. MCMAHAN: So he felt the other two were already
18 going to get 15.

19 THE COURT: Okay. All right. Very well. Thank you.
20 All right.

21 MR. SAVILLE: That's all we have for today, Your Honor.

22 THE COURT: Okay. Very well. I will -- yeah?

23 MS. MCMAHAN: Also, Your Honor, I believe there's that
24 affidavit, if -- if you'd like to review it.

25 THE COURT: Okay. Great. Thanks.

1 All right. Let me hold the affidavit, counsel.

2 Okay. Great. Thanks. All right. Okay. All right.

3 (WHEREUPON, the proceedings ended at 2:17 p.m.)

4

5 --- END REQUESTED TRANSCRIPT ---

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1 State of South Carolina)
2) Certificate
3 County of Florence)

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 46, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of Common Pleas for Beaufort County, South Carolina, on the 4th day of June, 2018.

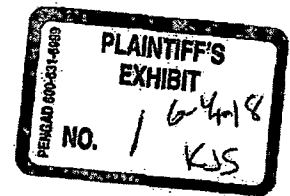
14 I do further certify that I am neither of kin, counsel,
15 nor interest to any party hereto.

17 s/Krystal J. Smith

18	Court Reporter
----	----------------

20 Florence, South Carolina

21 | November 20, 2018



I, Eric Mack am writing this statement and it is infact true and exact. I am writing this only to declare the innocense of Micheal Hawkins. He has been made a suspect and sentenced for a crime which he has not committed nor assist in. On the night of March 18th 2012, I was arrested for the crimes of Burglary 1st degree, Armed robbery, Possession of a Firearm, kidnapping, Assault & Battery, Criminal conspiracy and Failure to stop for a blue light. In this case, Micheal Hawkins was made a suspect and also my co-defendant. As I have said before during interrogation at the Beaufort County Sheriff's Office, Micheal Hawkins was not with me, nor did he assist me in any way at the time I committed these crimes. Mr. Hawkins was only in Beaufort to help me pack and move my belongings from Beaufort to my new residence. While we were gathering my things, I and Micheal ended up getting into a heated verbal dispute which he walked out on, leaving us to do the packing and moving ourselves. When Micheal left my house on Peppermint lane, I do not know where he went but I do know that he never came back to my house. Infact,

I didn't see Micheal anymore that night until he was brought into the Beaufort County Jail the next day. That was when I learned that he had been picked up by officers while walking and trying to find his way home. While awaiting trial, I spoke with Micheal's attorney and I also explained to him that Micheal did not assist me in the crimes he was accused of. I just don't believe that Mr. Christopher Lempesis was even paying me any attention because he didn't seem at all worried nor focused on the innocence of his client. Instead he basically just sat there with little to say while me and my attorney discussed my case.

Sworn to and subscribed
before me this
21st day of March, 202018

Eric Mock
Eric Mock

LISA BROWN ALSTON
Notary Public, State of South Carolina
My Commission Expires 2/5/2023

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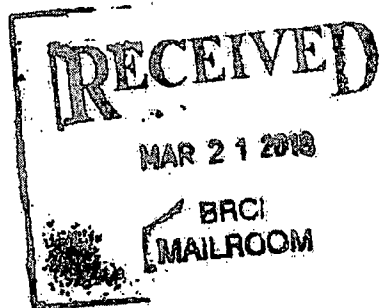
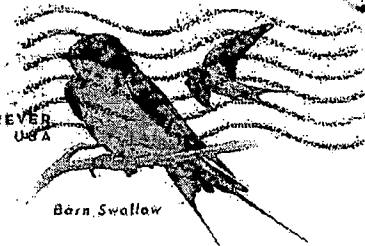
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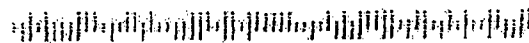
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STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

2018 AUG 13 PM 3:55

Michael E. Hawkins, #316547,

2016-CP-07-2544

DEPT. / JUDGE ROSENEAU
BEAUFORT COUNTY, S.C.
Applicant, CLERK OF COURT

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on December 1, 2016, and later amended on May 29, 2018. Respondent submitted its return on August 3, 2017. An evidentiary hearing into the matter was convened on June 4, 2018, at the Beaufort County Courthouse. Applicant was present at the hearing and was represented by Ashley A. McMahan, Esquire. Respondent was represented by Assistant Attorney General Christian Saville of the South Carolina Attorney General's Office.

Before this Court are the records of the Beaufort County Clerk of Court regarding the subject convictions, Applicant's appellate records, Applicant's records from the South Carolina Department of Corrections, the plea transcript, the State's return, and the applications. Based on these records and the testimony presented, the Court finds as follows:

I. PROCEDURAL HISTORY

The records before this Court indicate that Michael Hawkins ("Applicant") is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Beaufort County. In April 2012, the Beaufort County Grand Jury indicted Applicant for two counts of kidnapping (2012-GS-07-0923; -0721), first-degree burglary (2012-GS-07-0720), assault and battery of a high and aggravated nature (ABHAN) (2012-GS-07-

0722), criminal conspiracy (2012-GS-07-0723), armed robbery (2012-GS-07-0763), and possession of a weapon during the commission of a violent crime (2012-GS-07-0764). Christopher W. Lempesis, Jr., Esquire ("Plea Counsel"), represented Applicant. Assistant Solicitor Mary Concannon Jones prosecuted the case. On April 18, 2013, Applicant pleaded guilty as indicted, pursuant to Alford,¹ to all charges before the Honorable Carmen T. Mullen. Judge Mullen sentenced Applicant to imprisonment for fifteen years for each kidnapping charge, fifteen years first-degree burglary, fifteen years for ABHAN, fifteen years for armed robbery, five years for criminal conspiracy, and five years of possession of a weapon during the commission of a violent crime, all to be served concurrently. Applicant subsequently filed a motion to vacate or in the alternative to withdraw the guilty plea. Judge Mullen denied the motion on May 13, 2013.

Applicant filed a timely notice of appeal. Benjamin John Tripp, Esquire, of the Office of Appellate Defense perfected the appeal. The South Carolina Court of Appeals affirmed Applicant's conviction on June 22, 2016. State v. Hawkins, Op. No. 2012-UP-326 (Ct. App. 2016). The remittitur was returned on July 8, 2016.

II. ALLEGATIONS

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

1. Ineffective Assistance of Counsel
 - a. "Failed to properly explain circumstantial evidence to the Applicant."
 - b. "Failure to adequately address the fact that the victims initially indicated that they could point out who the alleged perpetrators were, but really only knew Eric Mack. Trial Counsel did not ask the victims about this and the victims later on indicated they did not know who the perpetrators really were."

¹ North Carolina v. Alford, 400 U.S. 25 (1970).

- c. "Trial counsel did not adequately address the distance between the locations involved in the case or address that the Applicant was not in the car, as reflected in the video."
- d. "Codefendant's charge in Charleston County that was ultimately dropped was used against the Applicant in his bond hearing."

III. SUMMARY OF RELEVANT TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. Applicant's Plea Counsel also testified.

Applicant's testimony

Applicant recalled meeting with Plea Counsel "maybe three times." Applicant testified there was no evidence against him other than "hand of one, hand of all" and there was no connection between he and the weapons involved in this case. Regarding his DNA being found in the stolen van, Applicant recalled he never disputed being involved with the van, as he had lawfully driven the van earlier to help the victims move. Moreover, Applicant testified it was clear he was not the person in dashcam footage and he had asked Plea Counsel to conduct a photo lineup to absolve him. Applicant denied ever being involved in the police chase. Applicant testified he did not know the difference between circumstantial and direct evidence, and conceded he did not have an alibi defense.

Applicant testified Plea Counsel never advised him of the potential sentences for his charges. Moreover, Applicant testified he would not have pled guilty if Plea Counsel would have explained to him he could possibly get a greater or lesser sentence than his codefendants.

Applicant acknowledged telling the plea judge he was satisfied with Plea Counsel's services and that Plea Counsel had done everything asked of him. Furthermore, Applicant recalled telling the plea judge he understood all his conversations with Plea Counsel. Applicant also acknowledged the plea judge advised him of the potential sentences for his charges.

Plea Counsel's testimony

Plea Counsel testified he met with Applicant ten or more times for lengthy amounts of time, in contrast to Applicant's testimony of only having met three times. He recalled explaining the evidence to Applicant, and Applicant seemed to understand these conversations. Plea Counsel explained he came to a different conclusion than Applicant about the dashcam footage, but with or without the footage, "you have him in proximity to where the chase ended." Plea Counsel testified codefendant Erick Mack's attorney would not let him talk to Mack. Furthermore, Trial Counsel recalled attempting to put together an alibi but was unsuccessful as all of Applicant's witnesses contradicted his version of the facts. According to Plea Counsel, he did thoroughly investigate the case as he represented Applicant over a year and a half by investigating all relevant witnesses and timing the drive between different locations in relation to the crime scenes. It was Plea Counsel's opinion there was enough evidence to support a conviction had the case proceeded to trial.

Plea Counsel testified he did explain the potential sentencing consequences to Applicant prior to his guilty plea. According to Plea Counsel, however, he did not recall telling Applicant he could receive different sentences than his codefendants, and he felt this would have been important to Applicant. However, Plea Counsel acknowledged Applicant was first to plead guilty, received the mandatory minimum sentence, and did not receive more time for these charges than his codefendants.

IV. APPLICABLE LAW

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must

prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove 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, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty pleas, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their

testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges Plea Counsel was ineffective in his representation surrounding his guilty plea. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. See Al-Shabazz v. State, 338 S.C. 354, 363, 527 S.E.2d 742, 747 (1999) (citing Drayton v. Evatt, 312 S.C. 4, 9, 430 S.E.2d 517, 520 (1993)). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citations omitted). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the range of competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985).

Furthermore, a guilty plea generally constitutes a waiver of non-jurisdictional defects and claims of violations of constitutional rights. See Rivers v. Strickland, 264 S.C. 121, 124, 213 S.E.2d 97, 98 (1975) (a plea of guilty constitutes a waiver of non-jurisdictional defects and defenses, including claims of violation of constitutional rights prior to the plea); Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

In the present case, this Court finds Applicant has failed to meet his burden in proving Plea Counsel was ineffective in any regard. This Court will address Applicant's allegations in the order in which they were presented in his amended application for post-conviction relief.

"Failure to properly explain circumstantial evidence to the Applicant"

Plea Counsel's testimony described a more than adequate investigation into the facts and evidence of this case. This Court finds Plea Counsel's testimony credible that he met with Applicant many times at length before the plea and explained the evidence and circumstances to Applicant as well as the potential sentences for his charges. Plea Counsel also testified he felt Applicant understand these conversations, and this is corroborated by Applicant's own representations to the plea judge. This Court finds Plea Counsel's testimony credible that he spoke to the relevant witnesses and Applicant's family members who contradicted Applicant's version of the facts. Notwithstanding, Applicant knowingly and voluntarily waived his right to challenge the State's evidence when he pled guilty. For these reasons, this Court finds Applicant has failed to satisfy his burden of proving Plea Counsel's conduct was deficient in this regard, and has also failed to satisfy his burden of proving that he would have proceeded to trial but for Plea Counsel's alleged deficiency. Therefore, this allegation is denied and dismissed with prejudice.

"Failure to adequately address the fact that the victims initially indicated that they could point out who the alleged perpetrators were, but really only knew Erick Mack..."

Applicant offered no credible or probative testimony that Plea Counsel was ineffective regarding the issue of identification by the victims with regard to codefendant Erick Mack or otherwise. In fact, this Court found Applicant's testimony to be self-serving and lack credibility.

Plea Counsel testified Erick Mack's attorney would not let him talk to Mack. However, Plea Counsel characterized the evidence in the case as circumstantial and enough to support a conviction. Applicant has presented no credible or probative testimony that this issue was dispositive, and the evidence of Applicant's DNA being found in the getaway vehicle, dashboard footage of an individual resembling Applicant exiting the van, and Applicant being found drenched in the vicinity walking in the roadway later that night comprised the brunt of the State's case. Plea Counsel credibly testified the defense was unable to pursue an alibi defense as witnesses and Applicant's own family contradicted the account he provided. Again, Applicant knowingly and voluntarily waived any defenses when he pled guilty. For these reasons, Applicant has failed to satisfy his burden of proving Plea Counsel was deficient regarding this allegation, and notwithstanding, Applicant has failed to prove how performance in any other capacity would have resulted in Applicant proceeding to trial rather than pleading guilty. Therefore, this allegation is denied and dismissed with prejudice.

"Plea Counsel did not adequately address the distance between the locations involved in the case or address that the Applicant was not in the car, as reflected in the video."

Applicant's allegation that Plea Counsel did not adequately address the distance between locations relative to the crime scene or Applicant's presence in the getaway vehicle is also meritless. While this Court finds Applicant's testimony that he is "clearly" not the individual in the dashcam footage seen exiting the getaway van to lack credibility, Plea Counsel credibly testified he disagreed with Applicant's interpretation. Furthermore, Plea Counsel credibly testified that regardless of the dashcam footage, the State could place Applicant within close enough proximity to where the chase ended, compounded with the evidence of Applicant having been in the van, that the dashcam footage was not dispositive. This Court finds Plea Counsel

exercised reasonable professional judgement with regard to this issue, and Applicant has further failed to prove any prejudice therefrom.

As to the investigation of the distance between locations involved in this case, this Court finds Plea Counsel thoroughly investigated this issue and went as far as to have his investigator drive the various distances involved and time them in efforts to aid Applicant's defense. Trial Counsel credibly testified the results of this investigation did not support Applicant's version of the facts and would not have been helpful at trial. Notwithstanding, both the issues of the dashcam footage and the distances involved in this case are issues Applicant could have raised at trial but knowingly and voluntarily waived when he pled guilty. Plea Counsel's representation was clearly not deficient in this regard, and Applicant has failed to prove he would have proceeded to trial but for Plea Counsel's conduct. Therefore, this allegation is denied and dismissed with prejudice.

"Codefendant's charge in Charleston ... was used against Applicant in his bond hearing."

Applicant did not present any credible or probative evidence or testimony to support this allegation listed in his amended application. Furthermore, this Court has had the opportunity to review the record and found no evidence to support this allegation. Therefore, Applicant has failed to satisfy his burden of proof regarding both deficiency and prejudice, and this allegation is denied and dismissed with prejudice.

Disparate Sentencing

While there was no allegation regarding sentencing in Applicant's application, this Court heard testimony from Applicant that he would not have pled guilty had he known his codefendants might receive more or less time than he received for the charges. This Court finds the allegation to be meritless. Plea Counsel testified he explained the potential sentences to

Applicant prior to his guilty plea. Moreover, the plea judge specifically advised Applicant of his potential sentences, and Applicant informed the plea judge he understood the possible sentences. "This court has no jurisdiction to review a sentence, provided it is within the limits provided by the statute for the discretion of the court, and is not the result of prejudice, oppression or corrupt motive." State v. Franklin, 267 S.C. 240, 246, 226 S.E.2d 896, 898 (1976). In Applicant's case, he received the mandatory *minimum* of fifteen years for first-degree burglary. See S.C. Code Ann. § 16-11-311(B). As Applicant was told prior to his plea by both Plea Counsel and the plea judge, the plea judge had no discretion to sentence Applicant to any less time than Applicant received. The sentences of Applicant's codefendants are wholly irrelevant to Applicant's sentencing. Notwithstanding, as Plea Counsel acknowledged at the PCR hearing, Applicant's codefendant Erick Mack also received the mandatory minimum of fifteen years. The record reveals Applicant knowingly and voluntarily pled guilty and received the mandatory minimum. This Court finds Plea Counsel was not deficient in advising Applicant of his potential sentences regardless of whether the sentences of codefendants, who had not yet been sentenced, were discussed. Furthermore, this Court does not find it credible that Applicant would have rather proceeded to trial had he known his codefendants might receive different sentences despite the fact he received the mandatory minimum and told the plea judge he understood the possible sentencing consequences. For these reasons, this allegation is denied and dismissed with prejudice.

VI. CONCLUSION

Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application.

Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

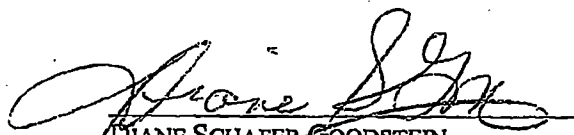
This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant 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 is denied and dismissed with prejudice in regard to all allegations; and
2. Applicant must be remanded to the custody of Respondent.

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

Orangeburg, South Carolina


 DIANE SCHAFER-GOODSTEIN
 Presiding Judge
 Fourteenth Judicial Circuit

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2016CP0702544

Michael Hawkins

South Carolina State Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☒ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☒ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order☐ Statement of Judgment by the Court:

Order of Dismissal

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

s/ D. S. Goodstein
Circuit Court Judge

2112
Judge Code

8/8/2018
Date

For Clerk of Court Office Use Only

This judgment was entered on August 13, 2018, and a copy mailed first class or placed in the appropriate attorney's box on August 14, 2018, to attorneys of record or to parties (when appearing pro se) as follows:

Michael Hawkins #316547 Allendale Corr. Inst. F2-A-28
Post Box 1151 Fairfax, SC 29827
Ashley A. McMahan PO Box 5501 West Columbia, SC
29169

Christian Saville PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

M. Kilby

Court Reporter

Jerri Ann Roseneau - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

WITNESSES

J. Kelleher-BCSO

ARREST WARRANT NUMBER

M057337

ACTION OF GRAND JURY

True Bill

Tiffany D. Hsieh
Foreperson of Grand Jury
Date:

APR 19 2012

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2012GS0700720

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

vs.

Michael Eugene Hawkins

Indictment for

Burglary 1st Degree (After 6/20/85)

SC Code: 16-11-0311
CDR Code:0079

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

Defendant

I _____
Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

INDICTMENT
2012GS0700720

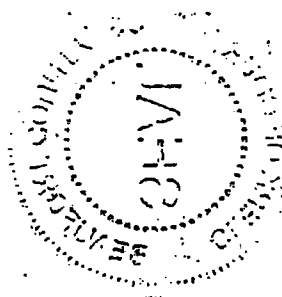
At a Court of General Sessions, convened on April 19, 2012, the Grand Jurors of Beaufort County present upon their oath:

Burglary/Burglary 1st Degree (After 6/20/85)

That Michael Eugene Hawkins did in Beaufort County on March 19, 2012, willfully and unlawfully enter the dwelling of Loretta Jackson and/or Laron Jackson located at [REDACTED], St. Helena Island, SC without consent and with the intent to commit a crime therein and the defendant entered during the hours of darkness and/or the defendant was armed with a deadly weapon, all in violation of Code Section §16-11-311, 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.

Lucy M. Shaw



WITNESSES

J. Kelleher-BCSO

ARREST WARRANT NUMBER

M057338

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

APR 19 2012

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2012GS0700721

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

vs.

Michael Eugene Hawkins

Indictment for

Kidnapping / Kidnapping

SC Code: 16-03-0910
CDR Code:0095

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

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

112

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

INDICTMENT
2012GS0700721

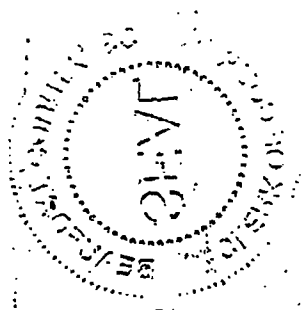
At a Court of General Sessions, convened on April 19, 2012, the Grand Jurors of Beaufort County present upon their oath:

Kidnapping / Kidnapping

That in Beaufort County, South Carolina, on or about March 19, 2012, the Defendant, Michael Eugene Hawkins, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Laron Jackson, without authority of law; all in violation of Section 16-3-910 of 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.

Lawrence M. Shaw



WITNESSES

J. Kelleher-BCSO

ARREST WARRANT NUMBER

M057339

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

APR 19 2012

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS0700722

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

vs.

Michael Eugene Hawkins

Indictment for

**Assault and Battery High and Aggravated
Nature**

SC Code: 16-03-0600(B)(2)
CDR Code:3411

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

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

INDICTMENT
2012GS0700722

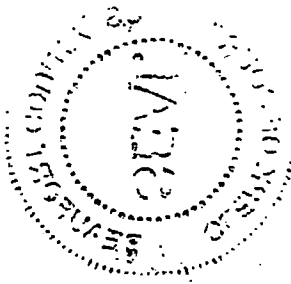
At a Court of General Sessions, convened on April 19, 2012, the Grand Jurors of Beaufort County present upon their oath:

Assault and Battery High and Aggravated Nature

That in Beaufort County, South Carolina, on or about March 19, 2012, the Defendant, Michael Eugene Hawkins, did commit an assault and battery constituting an unlawful injury to the victim, Laron Jackson, accompanied the infliction of great bodily injury; all in violation of Section 16-03-600(B) of 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.

Gene M. Shuman



WITNESSES

J. Kelleher-BCSO

ARREST WARRANT NUMBER

M057340

ACTION OF GRAND JURY

True Bill

Jeffery J. Hance
Foreperson of Grand Jury
Date:

APR 19 2012

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS0700723

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

vs.

Michael Eugene Hawkins

Indictment for

Conspiracy / Criminal Conspiracy

SC Code: 16-17-0410

CDR Code:0049

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

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

INDICTMENT
2012GS0700723

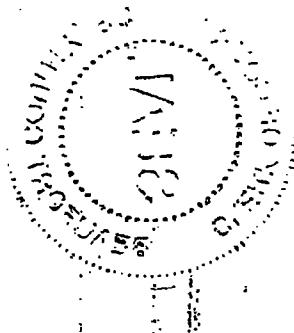
At a Court of General Sessions, convened on April 19, 2012, the Grand Jurors of Beaufort County present upon their oath:

Conspiracy / Criminal Conspiracy

That in Beaufort County, South Carolina, on or about March 19, 2012, the Defendant, Michael Eugene Hawkins, did combine, conspire, confederate, agree or have tacit understanding with another, for the purpose of committing a crime; to wit, Burglary 1st and/or Armed Robbery and/or Kidnapping and/or ABHAN, in violation of Section 16-17-410, 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.

Lawrence M. Shaw



WITNESSES

J.Kelleher-BCSO

ARREST WARRANT NUMBER

M057350

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

APR 19 2012

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS0700763

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

vs.

Michael Eugene Hawkins

Indictment for

**Robbery / Armed Robbery, robbery while armed
or allegedly armed**

SC Code: 16-11-0330(A)
CDR Code:0139

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

Defendant

I _____
Hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

INDICTMENT
2012GS0700763

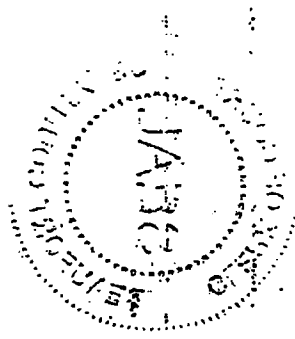
At a Court of General Sessions, convened on April 19, 2012, the Grand Jurors of Beaufort County present upon their oath:

Robbery / Armed Robbery, robbery while armed or allegedly armed

That on or about March 19, 2012, in Beaufort County, South Carolina, at [REDACTED] St. Helena Island, SC by use of force, threats or intimidation and while armed with a deadly weapon, to wit: a gun, the Defendant, Michael Eugene Hawkins, did take and carry away goods and/or monies from the person or immediate presence of Laron Jackson and/or Loretta Jackson with the intent to permanently deprive him of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws, 1976, as amended.

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

Sam M. Shuman



WITNESSES

J. Kelleher-BCSO

ARREST WARRANT NUMBER

M057351

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

APR 19 2012

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS0700764

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

vs.

Michael Eugene Hawkins

Indictment for

Weapons / Poss. weapon during violent crime

SC Code: 16-23-0490

CDR Code:0549

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

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2012GS0700764

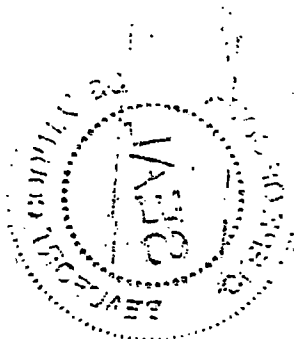
At a Court of General Sessions, convened on April 19, 2012, the Grand Jurors of Beaufort County present upon their oath:

Weapons / Poss. weapon during violent crime

That in Beaufort County, South Carolina, on or about March 19, 2012, the Defendant, Michael Eugene Hawkins, did possess a deadly weapon or visibly display what appeared to be a deadly weapon during the commission, or attempted commission, of Burglary 1st and/or Armed Robbery and/or Kidnapping and/or ABHAN, all violent crimes. This is in violation of 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

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

Lawrence M. Shaw



WITNESSES

J. Kelleher-BCSO

ARREST WARRANT NUMBER

2012GS0700923

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

APR 19 2012

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2012GS0700923

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2012

THE STATE

vs.

Michael Eugene Hawkins

Indictment for

Kidnapping / Kidnapping

SC Code: 16-03-0910

CDR Code:0095

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

Defendant

Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

INDICTMENT
2012GS0700923

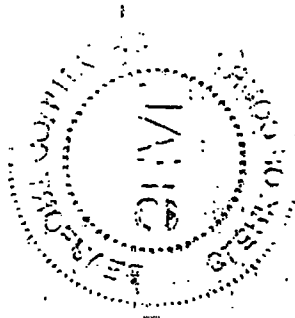
At a Court of General Sessions, convened on April 19, 2012, the Grand Jurors of Beaufort County present upon their oath:

Kidnapping / Kidnapping

That in Beaufort County, South Carolina, on or about March 19, 2012, the Defendant, Michael Eugene Hawkins, unlawfully did seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Loretta Jackson, without authority of law; all in violation of Section 16-3-910 of 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.

Gene M. Shuman



STATE OF SOUTH CAROLINA

15 years to life

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort
STATE VS.

Michael Eugene Hawkins

AKA:

Race: AFRICAN AME Sex: M Age: 24

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] North Carolina Ave

City, State, Z: [REDACTED] Charlotte 29405

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Burglary / Burglary (After June 20, 1985) - First degree

INDICTMENT/CASE#: 2012GS0700720

A/W#: M057337

Date of Offense: 3/19/2012

S.C. Code: § 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC, §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the State.

ATTORNEY: [REDACTED] 77415 [REDACTED] 77012

Bannon, Meredith SC Bar# [REDACTED] Defendant [REDACTED] Attorney for Defendant SC Bar# [REDACTED]

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge) \$100

§ 14-1-211(A)(2) (DUI Surcharge) \$100

§ 56-5-2995 (DUI Assessment) \$12

§ 56-1-286 (DUI Breath Test) \$25

Proviso 47.9 (Public Def/Prob) \$500

§ 14-1-212 (Law Enforce. Funding) \$25

§ 14-1-213 (Drug Court Surcharge) \$150

§ 50-21-114(BUI Breath Test Fee) \$50

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea

Proviso 90.5 (SCCJA Surcharge) \$5

3% to County (if paid in installments)

TOTAL \$13380

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47-12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: [REDACTED]

SCCA/217 (03/2011)

Certified - A True Copy

Presiding Judge

Judge Code: 2172

Ann Roseneau - Clerk of Court

Beaufort County, SC - Pam Burries

4-18-13

STATE OF SOUTH CAROLINA

0-30 years

COUNTY OF Beaufort
STATE VS.

Michael Eugene Hawkins

AKA:

Race: AFRICAN AME Sex: M Age: 24

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] North Carolina Ave
City, State, Zip: North Charleston SC 29405

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS0700721

A/W#: M057338

Date of Offense: 3/19/2012

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY:

Bannon, Meredith

77415 SC Bar#

Defendant

Attorney for Defendant

77612 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

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

\$ _____ paid to Public Defender Fund

Other:

No sex registry

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code

John H. Reseneau - Clerk of Court

Beaufort County, SC - Pam Burries

Certified - A True Copy

2142
4-18-12

STATE OF SOUTH CAROLINA

6-20 years

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort
STATE VS.

Michael Eugene Hawkins

INDICTMENT/CASE#: 2012GS0700722

A/W#: M057339

Date of Offense: 3/19/2012

S.C. Code § : 16-03-0600(B)(2)

CDR Code #: 3411

AKA:

Race: AFRICAN AME Sex: M Age: 24

DOB: SS#:

Address: North Carolina Ave.

City, State, Zip: North Charleston SC 29405

DL#: SID#:

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Assault and Battery High and Aggravated Nature

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0600(B)(2) of the S.C. Code of Laws, bearing CDR Code # 3411

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

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

ATTEST:

Bannon, Meredith

77415 SC Bar#

Defendant

Attorney for Defendant

77012 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 15 days/months/years of ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐

☐ Set by SCDPPPS

Attend Voc. Rehab. or Job Corp.

Recipient:

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

Random Drug/Alcohol testing ☐

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

\$ paid to Public Defender Fund

Other:

☒ Appointed PD or appointed other counsel, §17.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Certified - A True Copy

Presiding Judge

Judge Code:

Sentence Date:

Jerri Ann Roseneau - Clerk of Court
Beaufort County, SC - Pam Burries

4-18-13

STATE OF SOUTH CAROLINA

0-5 years

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort
STATE VS.

Michael Eugene Hawkins

AKA:

Race: AFRICAN AME Sex: M Age: 24

DOB: [REDACTED] SS#: [REDACTED]

Address: North Lincoln Ave
City, State, Zip: North Charleston SC 29405

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Conspiracy / Criminal Conspiracy, Common Law conspiracy defined

INDICTMENT/CASE#: 2012GS0700723

A/W#: M057340

Date of Offense: 3/19/2012

S.C. Code § 16-17-0410

CDR Code #: 0049

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS (CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTORNEY: [Signature] 77415 [Signature] 77012
Bannon, Meredith SC Bar# [Signature] Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation formonths/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL		\$ 133.90

PTUP

days/hours Public Service Employment

Obtain GED ☐Attend Voc. Rehab. or Job Corp. ☐

May serve W/E beginning

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

\$ paid to Public Defender Fund

Other:

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

Clerk of Court/ Deputy Clerk

Court Reporter: Frances Baker - [Signature]

SCCA/217 (03/2011)

Certified - A True Copy
Presiding Judge
Judge Code: 2112
Sentence Date: 4-13-18
Jeri Ann Roseneau - Clerk of Court
Beaufort County, SC - Pam Burries

128

STATE OF SOUTH CAROLINA

10-30 years

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort
 STATE VS.
Michael Eugene Hawkins

INDICTMENT/CASE#: 2012GS0700763

AKA:

A/W#: M057350Race: AFRICAN AME Sex: M Age: 24Date of Offense: 3/19/2012DOB: [REDACTED] SS#: [REDACTED]S.C. Code §: 16-11-0330(A)Address: [REDACTED] North Carolina Ave
 City, State, Zip: North Charleston SC 29407CDR Code #: 0139DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADSTO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST: [Signature] 77415 [Signature] [Signature] 77012
Bannon, Meredith SC Bar# [REDACTED] Defendant Attorney for Defendant SC Bar#
WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or paymentof \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP

Total: \$ — plus 20% fee: \$ —— days/hours Public Service EmploymentPayment Terms: —Obtain GED ☐☐ Set by SCDPPPS —Attend Voc. Rehab. or Job Corp. —Recipient: —May serve W/E beginning —Substance Abuse Counseling ☐

*Fine:

§ 14-1-206 (Assessments 107.5%) \$ —Random Drug/Alcohol-testing ☐§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ — beginning —§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ —\$ — paid to Public Defender Fund§ 56-5-2995 (DUI Assessment) \$12 \$ —Other: —§ 56-1-286 (DUI Breath Test) \$25 \$ —Proviso 47.9 (Public Def/Prob) \$500 \$ —§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§ 14-1-213 (Drug Court Surcharge) \$150 \$ —§ 50-21-114 (BUI Breath Test Fee) \$50 \$ —§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ —Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 123.90
☐ Appointed PD or appointed other counsel,
 § 47-12 requires \$500 be paid to Clerk during probation.
Clerk of Court/ Deputy Clerk [Signature]Court Reporter: Frances Baker

SCCA/217 (03/2011)

 Certified - A True Copy
 Presiding Judge [Signature]
 Judge Coder 2142
 Entered Date: 4-18-13
 Jean Ann Rosenbau - Clerk of Court
 Beaufort County, SC - Pam Burries

STATE OF SOUTH CAROLINA

0-5 years

COUNTY OF Beaufort
STATE VS.

Michael Eugene Hawkins

AKA:

Race: AFRICAN AME Sex: M Age: 24

DOB: SS#:

Address: North Carolina Ave
City, State, Zip: North Charleston SC 29407

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADS

TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490

of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS/CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the State.

ATTEST:

Bannon, Meredith

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

\$	
\$	
\$100	\$100.00
\$100	
\$12	
\$25	
\$500	
\$25	\$25.00
\$150	
\$50	
\$500	
\$40/ea	
\$5	\$5.00
\$	\$3.90
\$	\$133.90

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ paid to Public Defender Fund

Other:

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

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Certified - A True Copy

Presiding Judge

Judge Code:

Scribed Date:

Jeri Ann Roseneau - Clerk of Court
Beaufort County, SC Pam Burries

STATE OF SOUTH CAROLINA

0-30 years

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort
STATE VS.

Michael Eugene Hawkins

AKA:

Race: AFRICAN AME Sex: M Age: 24

DOB: [REDACTED] SS# [REDACTED]

City, State, Zip: North Charleston, SC 29405
DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping

INDICTMENT/CASE#: 2012GS0700923

A/W#: 2012GS0700923

Date of Offense: 3/19/2012

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Bannon, Meredith

SC Bar# 77415

Defendant: [Signature]

Attorney for Defendant: [Signature]

SC Bar# 77012

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.70

TOTAL \$ 123.70

PTUP _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other:

No sexual registry

No sexual offender

☐ Appointed PD or appointed other counsel, § 47-12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Frances Babin - Ray

SCCA/217 (03/2011)

Certified - A True Copy

Judging Judge

Sentence Date: 4-13-12

Jari Ann Roseneau - Clerk of Court
Beaufort County, SC - Pam Burries