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JUN 07 2019

State of South Carolina S.C. SUPREME COURT  
IN THE SUPREME COURT

Certiorari to Pickens County

Honorable Letitia H. Verdum, Circuit Court Judge

Demossio Monte Valentine,  
Petitioner

v.

STATE OF SOUTH CAROLINA,

RESPONDENT

RECEIVED

JUN 07 2019

APPELLATE CASE NO. 2018-SC-000996  
S.C. SUPREME COURT

PRO SE RESPONSE AND AMENDED JOHNSON PETITION  
FOR WRIT OF CERTIORARI

Demossio M. Valentine  
PRO SE PETITIONER

Tyger River Corr Inst. UNIT 4-112  
200 PRISON ROAD  
ENOCH, SC 29335

DATE, 5/31/2019

This is my Pro Se Response AND amended version of the Johnson Petition filed by Appellate Defender, Taylor D. Gilliam. AFTER intense study of transcripts and study of ORDER OF DISMISSAL, I now see merit and can show burden of proof of all claims of ineffective assistance of counsel, also new claims of inadequate assistance of counsel in initial-review collateral proceeding, and Petitioner can also show burden of proof that he was prejudiced by fact finder at Evidentiary Hearings, by fact finder taking judicial notice of alibi witness and then claiming in Order of Dismissal that alibi witness was not present in court room, OR available to testify on Petitioner's behalf, also by witness being present at evidentiary hearing ~~st~~ shows burden of proof that Petitioner had witnesses who were available to testify at trial. I have Exhibits of Proof Attached to this Pro Se Response, to show burden of proof and if it may please the courts could you take a look at all matters at hand.

By law in a PCR Hearing, the PCR court factual findings will be upheld if there is any probative evidence in the record to support those findings. "Sallner v. State, 416 S.C. 606, 610, 787, S.E. 2d 535, 537 (2016)

Buckson v. State, 423 S.C. 33, 320, 815 S.E. 2d 436, 440 (2018) The PCR court's evaluation of witness credibility is to be afforded great deference.

Simuel v. State, 390 S.C. 267, 270, 701 S.E. 2d 738, 739 (2010). Here, the PCR court reached certain factual conclusions that appear to be supported by probative evidence in the record. These conclusions were based primarily upon PCR court's evaluation of the credibility of Petitioner and trial counsel. Again PCR court found Petitioner to be not credible and trial counsel to be credible

Here a witness were present at the PCR hearing and was prepared to testify to certain facts and circumstances. These facts and circumstances were indeed pertinent of evidence Petitioner claims would have been presented before a trial by jury, if trial lawyer would have subpoena to court. These facts and circumstances would have been pertinent to the dynamic surrounding trial counsel's alleged delinquent failure to interview or subpoena witnesses, and call them as witnesses at trial and PCR hearing. Under ordinary circumstances, once a witness testify at a PCR hearing the PCR court would normally make findings as to their credibility.

But by not allowing witness to testify, it was an error for the PCR court to take judicial notice of a witness and then conclude in order of dismissal that no witness was present or available to testify. Also acknowledge that PCR counsel did not object to this approach. Also acknowledge that PCR counsel did not subpoena all witnesses and Petitioner motion on the record at PCR hearing, to relieve PCR counsel because of inadequate assistance.

Under these unique circumstances, Petitioner ask the court to remand this matter to the PCR court for a new hearing because Petitioner showed prejudiced with fact finder and also last PCR evidentiary hearing was incomplete, and diluted the process to the point the PCR courts factual findings - were based upon an incomplete consideration of all evidence.

Attached is Exhibits of burden of proof, and also case law to all my claims.

A defendant has the right to effective assistance of counsel under the 6<sup>th</sup> Amendment to the United States constitution.

And if the Courts could, please Review Full Appendix. Thanks

Also AT Evidentiary Hearing, Trial counsel admitted to plea bargain for this charge and admitted to having knowledge and not convey, Petitioner tried to explain plea bargain but got it backwards, it was for lesser offense from CSC 2<sup>nd</sup> degree and Drugs 3<sup>rd</sup>, to Assault and Battery 2 counts and Drugs 2<sup>nd</sup> for ten years. Sentence would've been paroleable and 65%, instead Petitioner was forced to plea because of incompetent counsel.

In a PCR proceeding, the applicant bears the burden of establishing that he is entitled to relief. (Apood v. State, 338 S.C. 103, 109, 525 S.E. 2d 514, 517 (2000)) \* In a guilty plea, court must determine whether 1) counsel advise was in range of competence demanded of attorney's in criminal case i.e. was counsel's performance deficient. 2) if there is reasonable probability that, but for counsel's errors, the defendant would not have pled guilty

Deficient Performance

Although our appellate courts have not directly addressed the question of whether counsel's failure to communicate a plea offer to his client constitutes deficient performance, other cases of deficient performance in the Petitioners position. See Sprouse v. State, 355, 340, 585 S.E. 2d 278 281 (2003) finding defendant was entitled to relief where the State failed to honor plea agreement

\* State v. Simmons, 65 NC App 294, 309, S.E. 2d. 493 (1983) (defendant was clearly prejudiced by his attorney failing to inform him of plea bargain.) Harris v. State ~~478 S.W. 2d 665~~ 85 S.W. 2d 665 (Tenn 1994) There is no doubt that the prejudice suffered by defendant was the direct result of failure on part of the defense counsel to discuss plea bargain with his client and failure to respond timely to States offer.) State v. James, 188 Washington App 353, 739 P.2d 1161, 1167 (1987)

(If we were presented with a finding, supported by substantial evidence, that our last counsel failed to convey the plea negotiations to his clients, we have no hesitation to conclude they were denied effective assistance of counsel on this error alone

Other states courts have found prejudice based on the defendant self serving statements that he would've accepted plea offer if aware of it  
See People v. Calpepper 149 Misc. 2d 550 567 405 327, 388 (1990)

Cottle v. State 733 So 2d 963, 967, (Fla 1999)

Courts in this State recognized claims arising out of counsel's failure to inform him of plea bargain, and have required to show that. 1) counsel failed to communicate plea 2) defendant, would he accept the plea offer but for inadequate notice 3) acceptance of <sup>State</sup> plea offer would have resulted in lesser sentence.

Commonwealth v. Copeland 381 Pa. Super. 382, 554 A.2d 54, 61 (1988)

Crucial sentence and remanding for evidentiary hearing during which defendant would have burden of proving that 1) an offer for a plea was made. 2) trial counsel failed to inform him of plea. 3) trial counsel had no reasonable basis for failing to inform him of such offer. 4) that he was prejudiced thereby

State v. Lopez, 274 N.B. 756 743 NW. 2d 351, 358 (2008)

Judge v. State 321 S.C. 554, 562, 471 SE 2d 146, 50 (1996)

The second prong of the ineffective assistance inquiry - prejudiced - is shown by demonstrating through objective evidence.

More statements by PCR Petitioner that he would have accepted the plea agreement but for counsel's incompetence

1 because at the same -- I'm not guilty of this. I  
2 didn't want to, but I felt like -- you know what I'm  
3 saying? -- when that happened right there, it kind of  
4 messed up my options. I think it was, like, a scare  
5 tactic.

6 Q Okay. So what -- I want to go back. The  
7 witnesses that you say, did you tell Mr. DeJong about  
8 those witnesses?

9 A Yeah, I told him about the witnesses, which  
10 is Samantha Dodson --

11 Q Right.

12 A -- and my brother, Teddy Valentine.

13 Q Teddy Valentine, and then Randy Smith was  
14 another one, correct?

15 A Yeah, but he deceased.

16 Q Okay. But did you tell him about those  
17 individuals?

18 A Yeah, I told him about all of those  
19 individuals.

20 Q What did you tell him about them, what they  
21 would testify to?

22 A Basically -- you know what I mean? -- when  
23 that guy did call me on the phone and asked me for a  
24 40 -- now, I want you to know that I am a drinker --  
25 you know what I'm saying? -- so I'm thinking that's

Alibi witness where Mr. Ariail was ineffective, I know about the witnesses produced that never them

TR. 11 54  
3-18

1           **A**    I'm sorry. Would you repeat that, please,  
2 sir?

3           **Q**    He said he had some witnesses, and he  
4 stated them in his examination. I can go back and  
5 tell you who they are. He said there were Samantha  
6 Dodson, Georgia Burts (phonetic), Tedrick Valentine  
7 and Randy Smith that he indicated would testify that  
8 he did not sell drugs on this day. Do you remember  
9 having a discussion with him about that?

10          **A**    I do not.

11          **Q**    Do you remember talking with any witnesses  
12 who specifically said he didn't sell drugs on this  
13 day?

14          **A**    I did not.

15          **Q**    Okay. So you didn't believe you had anybody  
16 that could go to trial with you to be able to  
17 substantiate what he was saying?

18          **A**    That is correct.

19          **Q**    Now, he's indicated that there was a plea  
20 offer that he received or something of that nature  
21 that was for 10 years. Do you have any recollection  
22 of that?

23          **A**    I don't. As a matter of fact, once he said  
24 that I sat back there in the pew and reviewed my  
25 file. I'm not saying that was not a possibility, but

1           **THE COURT:** All right. And is the State  
2 planning to call any other witnesses?

3           **MS. CLEVELAND:** No.

4           **THE COURT:** Mr. Valentine, we sort of  
5 stopped midway, and before I knew it, it was a  
6 minute before. But I'm going to take these  
7 matters under consideration. Here's what I'm  
8 going to tell you, I'm going to hold off, for  
9 one month, to rule on this case. If you want to  
10 submit anything else, then I'd be happy to take  
11 a look at anything you want to submit, and I'm  
12 going to leave it open for a month.

13           **MR. VALENTINE:** What about my witnesses?

14           **THE COURT:** You're saying you've got these  
15 -- well, you said that he did not subpoena your  
16 witnesses here today. We were here to retry the  
17 case. But you said -- you said that he didn't  
18 subpoena your witnesses and that they were  
19 necessary witnesses.

20           **MR. VALENTINE:** I was speaking about John  
21 DeJong when we were going to trial. But my  
22 witness was just in here. He asked me to have my  
23 witnesses come up here today.

24           **THE COURT:** Okay. And she's -- and she's  
25 here. I understand what he -- Mr. Ariail, if I'm

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**THE COURT:** I'm not discounting that, at all. I just have to keep order in the courtroom. That's all.

**MR. VALENTINE:** Okay.

**THE COURT:** Okay, Mr. Valentine. Anything else that you want to submit?

**MR. VALENTINE:** That's it.

**THE COURT:** Okay. Thank you. All right. Will you bring our lady back in? Will you bring our lady back in for just a moment? I want to have a talk with her.

(Pause.)

Ma'am, tell me your name please?

**SPEAKER:** Samantha Dodson.

**THE COURT:** All right, Ms. Dodson. We had a -- I asked the deputy here to remove you, because I thought that I saw you making gestures to another person in the courtroom. Here's what I want to say to you, I spoke with Mr. Valentine about it. He told me about y'all's relationship and he told me that you felt like Mr. DeJong and another attorney were making fun of him on the stand. We have already cleared this up. Those two attorneys used to work together, no longer work together, and they were just catching up.

## Remarks

1 That had nothing to do with Mr. Valentine.

2 I just -- but I want you to know something,  
3 any kind of things like that, where you say,  
4 "I'm watching you" or "I've got my eye on you"  
5 or something like that or whatever I could see  
6 you mouthing, looking over at an attorney, I  
7 take that very seriously. In fact, normally, I  
8 take somebody into custody for that kind of  
9 behavior -- hold on one second.

10 I take them into custody and I let them  
11 stay at the Law Enforcement Center until they,  
12 can be appointed an attorney and come up here  
13 and we can sort this out and we decide whether  
14 or not to have you charged. Because of the  
15 misunderstanding that happened today, I'm not  
16 going to do that. Okay? I'm going to let you  
17 leave the courtroom, and I'm not going to take  
18 you into custody, because it was just a  
19 misunderstanding.

20 But I need for you to know that if you  
21 communicate any sort of threat or anything to  
22 anyone involved in this case, the sheriff's  
23 deputy will come out and pick you up.

24 **SPEAKER:** May I speak?

25 **THE COURT:** Yes, ma'am.

1           **SPEAKER:**     Okay.

2           **THE COURT:**   Very briefly, because we've  
3 got a bunch of other matters.

4           **SPEAKER:**     I do understand. What I said  
5 was, "It was unprofessional." I been here before  
6 Mr. Valentine came out. I heard them speaking on  
7 Mr. Valentine. They have been making jokes, the  
8 whole time, about Mr. Valentine. I felt it was  
9 unprofessional, and that's what I said.

10          **THE COURT:**   I got you. Okay. Listen. Like  
11 I said, they are two attorneys who used to work  
12 together a long time ago, now they don't work  
13 together. And they saw each other today and were  
14 catching up. I think it was a misunderstanding  
15 on both sides and so we'll just -- we'll drop it  
16 at that. I thought you said something else and  
17 that's why I had you removed from the courtroom.

18          **SPEAKER:**     I said, "It's unprofessional."

19          **THE COURT:**   It's unprofessional? Okay.  
20 Look, I thought you said something else, but  
21 that's why I asked you to leave the courtroom.  
22 But we got it all cleared up now, and I'm not  
23 going to take you into custody or do anything  
24 like that. Okay.

25                       And I told Mr. Valentine I would wait one

1 month before I'm going to rule on this case, in  
2 case he needs to submit anything else, but we  
3 noted, for the record, that you would appear as  
4 a witness if you -- if this case were to go to  
5 trial again. That was -- that's what we did --  
6 Okay? -- just to catch you up. All right. Thank  
7 you, ma'am.

8  
9 (Proceedings conclude at approximately  
10 10:39 a.m.)

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Exhibit A

The PREJUDICE BY FACT FINDER  
AFTER TAKING JUDICIAL NOTICE

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he did not have any physical or mental issues which would prevent him from understanding the proceeding, and Applicant indicated he understood all of the plea judge's questions and had answered them honestly. This Court therefore finds that Applicant understood the terms of the plea and the possible sentences he could receive:

Therefore, this Court finds Applicant has failed to prove the first prong of the Strickland test - that Counsel failed to render reasonably effective assistance under prevailing professional norms. Applicant failed to present compelling evidence that Counsel committed either errors or omissions in his representation of Applicant. This Court also finds Applicant has failed to prove the second prong of Strickland - that he was prejudiced by Counsel's performance. This Court also finds that the record fully supports the knowing and voluntary nature of Applicant's guilty plea. See Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (holding defendant's knowing and voluntary waiver of statutory or constitutional rights in a guilty plea "must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both."). In addition, Applicant has presented no evidence or valid reasons why he should be allowed to depart from the truth of his statements made at the plea. See Dalton, 376 S.C. at 137, 654 S.E.2d at 874 ("[Admissions] made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements."). This Court concludes Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. The allegation is denied and dismissed.

This Court would further find Applicant stated that he provided Counsel with at least four names of witness that he wanted subpoenaed to testify at trial. However, those witnesses were not present in the courtroom and did not present any testimony during the evidentiary hearing.

Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post-conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4<sup>th</sup> Cir. 1990), cert. denied, 499 U.S. 982 (1991).

Due Process Violation

Applicant alleges that he was denied due process of law. However, Applicant failed to set forth with specificity the grounds upon which these constitutional violations were based or present any evidence of a specific violation. After a review of the record, this Court finds this allegation is without merit. Accordingly, this allegation is denied and dismissed with prejudice.

**IV. CONCLUSION**

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

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.I(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your

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reason I stopped. But I understand what you're saying here today.

**MR. VALENTINE:** Basically what I'm saying is, I don't think -- me, personally, I was going to say this. If I had met with him before we came here, because I haven't even spoke with him -- but I was going to hire a lawyer. I haven't spoke with this guy. Like I said, I'm not prepared for this.

I spoke with him for five minutes at Lee County. Now, for him to put me on the stand and talk, I mean, I do the best I can. But me, personally, I don't want to go through with this right here with this lawyer. I was going to say this before, but they ain't never gave me a chance to speak. I tried to contact --

**THE COURT:** You're saying he came to Lee County and --

**MR. VALENTINE:** No, he called me on the phone for five minutes.

**THE COURT:** Called you on the phone and talked to you on the phone?

**MR. VALENTINE:** For five minutes.

**THE COURT:** I got you.

**MR. VALENTINE:** Like I said, I got 16

1 not anything that -- they're not laughing about  
2 your situation. I think they were just catching  
3 up, which I heard -- which I heard them a little  
4 bit before we started -- catching up.

5 **MR. VALENTINE:** May I say something before  
6 we get started?

7 **THE COURT:** Yes, sir.

8 **MR. VALENTINE:** This whole PCR thing here,  
9 we speaking about this -- in court about this,  
10 but honestly, I'm just meeting him today.

11 **THE COURT:** Uh-huh.

12 **MR. VALENTINE:** I talked to him for five  
13 minutes before. I'm just want -- this is my life  
14 at stake.

15 **THE COURT:** I understand. I understand.  
16 That's the reason why I wanted all of this to  
17 stop that was going on, because I'm trying to  
18 hear and understand what's being said. I was  
19 trying to focus on what you were telling me and  
20 the information you're telling me.

21 **MR. VALENTINE:** Yes, ma'am.

22 **THE COURT:** And then I'm trying to focus  
23 on what Mr. DeJong is saying here today. I don't  
24 -- I was being distracted by the lady saying  
25 something to somebody in the gallery. That's the

1           **THE COURT:**    What was she saying?

2           **MS. PARKER MCCLAIN:**    She said, "I'm  
3 watching you." But I can't say that for sure.  
4 She definitely -- she was staring us down  
5 through.

6           **THE COURT:**    Mr. Valentine, yes?

7           **MR. VALENTINE:**    When I came back, she was  
8 saying something about that, I guess, Ms. Teal  
9 Johnson -- am I correct? -- and Mr. DeJong was  
10 back there laughing or something. I guess she  
11 felt like they were trying to make -- that's  
12 Samantha Dodson. That's one of my witnesses. I  
13 don't know what's going on, myself.

14           **THE COURT:**    Well, just by way of  
15 explanation -- if I could, I happen to know a  
16 little bit about this situation -- Mr. DeJong  
17 and Ms. Johnson used to work together. They no  
18 longer work together. I think they're just --  
19 probably just catching up with one another.

20           **MR. VALENTINE:**    And I know that, now  
21 knowing that that's who that is, Ms. Teal  
22 Johnson. I had met her one time. I didn't  
23 recognize her, though. But I know that,  
24 personally, but I don't think she knows that.

25           **THE COURT:**    And so, I -- she -- there's

1 words, send something else to me, because I'm  
2 not going to rule today. I want to take under  
3 consideration all the things that you said, and  
4 I want to look into a few things, and that's  
5 going to take me a little time.

6 I haven't finished hearing Mr. DeJong's  
7 testimony, but if there's something else you  
8 want to send me or if, in the interim before I  
9 rule, you hire an attorney, then that's one  
10 thing. We can maybe cross that bridge when we  
11 get to it. But, as I said, I'm not going to rule  
12 today. You can be assured of that. Because I  
13 want to -- I think you raised some interesting  
14 points on the stand, and I want to look into it.

15 **MR. VALENTINE:** All right. I understand  
16 that. But like I said, this is my life on the  
17 line.

18 **THE COURT:** I understand.

19 **MR. VALENTINE:** I'm willing to do that  
20 now.

21 **THE COURT:** I got you.

22 **MR. VALENTINE:** I wasn't aware that I  
23 could have hired an attorney, being that you  
24 dealing with the state and it's a  
25 post-conviction.

1 years. I'm really trying to take this serious.

2 **THE COURT:** Oh, yeah.

3 **MR. VALENTINE:** I understand that, but  
4 this is something that I know that he wasn't  
5 prepared for.

6 **THE COURT:** I'm surprised to hear you say  
7 that. I felt like he did an outstanding job.

8 **MR. VALENTINE:** Understand, he did do  
9 good, but this is my life, too, at the same  
10 time. At the same time --

11 **THE COURT:** Will the attorneys approach?  
12 Hold on just one second.

13 Will the attorneys approach.

14 (Bench conference is held off the record.)

15 **THE COURT:** All right. I was just asking  
16 the State if they had any objections to what I  
17 consider to be your motion here today for a  
18 continuance. And, Mr. Valentine, we have  
19 started. I felt like I understood your testimony  
20 very well.

21 **MR. VALENTINE:** Yes, ma'am.

22 **THE COURT:** Mr. Ariail is a very extremely  
23 experienced post-conviction relief attorney. So,  
24 I'm going to continue on, here today. I may give  
25 you some time to supplement something, in other

1 the Solicitor's office usually keep them cloistered  
2 until they call them for the trial." I may have been  
3 somewhat instrumental in him seeing his CI, but I  
4 thought that was more for his benefit than anybody  
5 else, in view of the fact that he was so adamant that  
6 the CI was not going to show up to testify.

7 Q Okay. I guess -- so his presentation and  
8 understanding on what happened, there was a CI that  
9 did, I guess, go and see him while he was  
10 incarcerated?

11 A I do -- well, not while he was --

12 Q In jail.

13 A -- well, not at the jail.

14 Q Okay.

15 A He was in a holding cell, Family Court --  
16 what I call the Family Court holding cell in Pickens  
17 County. Now I don't recall that I went down the  
18 hallway with the CI or the narcs. That part, I do not  
19 remember. But nonetheless, I am aware that the CI  
20 went to the holding cell. Whether they spoke to him.  
21 or not, I don't know.

22 Q Okay. Now, as part of this, he's indicated  
23 that he had witnesses and he just laid them out as  
24 who would have testified that he did not sell the  
25 drugs on this day?

1 I do not and have not, very hurriedly going through  
2 my file, found such a plea offer.

3 Q You have anything that shows that you sent  
4 him anything about a plea offer for 10 years?

5 A I do not.

6 Q You have anything in your file showing that  
7 you got anything or had a discussion with the  
8 Solicitor's Office about that?

9 A I do not. There was -- when he mentioned  
10 assault and battery of a high and aggravated nature,  
11 at one point in time, he was charged with a criminal  
12 sexual conduct case. It is possible that there was  
13 some kind of plea offer in that. Quite candidly, the  
14 allegations of criminal sexual conduct, I wouldn't  
15 have advised him to plead to anything on that case.  
16 That was a horrible case. It should never have been  
17 brought.

18 MR. ARIAIL: Okay. Your Honor, I have no  
19 further questions.

20 THE COURT: All right. Yes, ma'am.

21 CROSS-EXAMINATION

22 BY MS. CLEVELAND:

23 Q Good morning, Mr. DeJong.

24 A Good morning.

25 Q How long have you been practicing law?

1 what he was asking me about. So when he get there --  
2 you know what I mean? -- basically it was two -- it  
3 was two tapes on the thing. The first thing was a  
4 tape of him calling me, asking me for a 40. Like I  
5 said, I'm a big drinker, so I was thinking that's  
6 what he was speaking about, because I deal with this  
7 guy. So when he get there -- you know what I'm  
8 saying? -- actually get there, it was supposed to be  
9 some type of buy. The second tape, you don't really  
10 hear anything on it -- you know what I'm saying? --  
11 but I never sold him no drugs.

12 Q Okay. Those witnesses, were they going --  
13 what were they going to testify to?

14 A Basically -- you know what I mean? -- that  
15 I was there -- me and my brother was there. We both  
16 were outside. Like I said, you know, actually, the  
17 confidential informant, he informed my mama that if  
18 he needed to come up here speak with y'all that he  
19 would do so. But like I said, he wasn't even  
20 subpoenaed here today. I don't even know why we -- I  
21 don't understand this.

22 Q We had discussed that, and you were going  
23 to give me those addresses for those individuals,  
24 correct?

25 A I'm not in a current position to even give

1           Excuse me, Your Honor. If I may look at one  
2 thing real quickly here. (Reviewing.)

3           Looking at the way I normally do witness  
4 lists and voir dire --

5           **THE COURT:** Can we break for just one  
6 moment? I believe I saw a person in the gallery  
7 saying to another person in the gallery  
8 something to the effect that she's watching --  
9 "I'm watching you" or "I've got my eye on you."  
10 I'm concerned about her remaining in the  
11 courthouse. I don't know who she was talking to,  
12 and I don't know why she was saying it.

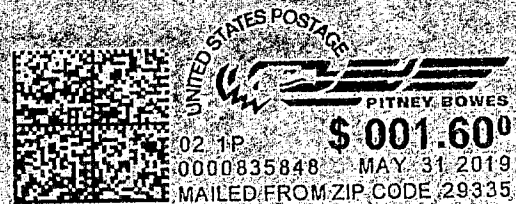
13           **THE DEPUTY:** For the time being, I had her  
14 sit outside, but I'll be more than glad to have  
15 her leave the courthouse.

16           **THE COURT:** Yes, sir. She's speaking to  
17 someone -- she's speaking to someone on this  
18 side of the room. I sat and watched it for a  
19 little while but, now, I can tell she is now  
20 mouthing something to someone in the room. Does  
21 anybody know? Did anybody see her?

22           **MS. PARKER MCCLAIN:** Your Honor, I saw  
23 her. I thought she was speaking to me, and then  
24 she pointed to Ms. Johnson. I believe she was  
25 addressing --

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SC Supreme Court  
Daniel E. Sharhouse, Clerk  
Do Box 1330