

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable Grace Gilchrist Knie, Circuit Court Judge

SASHA D. THOMAS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000998

APPENDIX

TAYLOR D GILLIAM
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

JORDAN COX
Assistant Attorney General
P. O. Box 11549
Columbia, SC 29211

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

)
) IN THE COURT OF GENERAL SESSIONS

The State,
-vs-
Sasha Deyond Thomas,
Defendant.

)
) TRANSCRIPT OF RECORD
) 2016-GS-42-1425
)
) December 15, 2016
) Spartanburg, South Carolina

B E F O R E :

HONORABLE J. DERHAM COLE, JUDGE

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

BARRY JOE BARNETTE, ESQUIRE
Attorney for the State

ANDREA LEAH PRICE, ESQUIRE
Attorney for the Defendant

REGINALD L. FOSTER, ESQUIRE
Attorney for the Victim

Linda D. Moffitt
Circuit Court Reporter

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-1	Incident report		4
S-2	Amended traffic report		4
S-3	DVD		4
S-4	Test report		4
S-5	Urine/blood collection report		4
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S-10	Photograph		4
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S-12	Rap sheet		4

1 (Incident report marked State's Exhibit No. 1; amended
2 traffic report marked State's Exhibit No: 2; DVD marked
3 State's Exhibit No. 3; test report marked State's Exhibit
4 No. 4; urine/blood collection report marked State's Exhibit
5 No. 5; chain of custody marked State's Exhibit No. 6; scram
6 information marked State's Exhibit No. 7; medical records
7 marked State's Exhibit No. 8; X-ray marked State's Exhibit
8 No. 9; photograph marked State's Exhibit No. 10; defendant's
9 driving record marked State's Exhibit No. 11; rap sheet
10 marked State's Exhibit No. 12.)

11 MR. BARNETTE: May it please the Court, Your Honor.

12 THE COURT: Yes.

13 MR. BARNETTE: This is the case of the State vs. Sasha
14 Thomas.

15 Your Honor, she's pleading guilty to two counts on
16 Indictment 2016-GS-42-1425.

17 Your Honor, she's pleading on count one, felony D.U.I.
18 with great bodily injury; pleading to count two, driving
19 under suspension.

20 Your Honor, it has been true billed by the grand jury,
21 Your Honor. She's represented by Andrea Price in this
22 matter.

23 Your Honor, this is a straight up plea in this case.

24 I do have the victim here that would like to address
25 the Court at the appropriate time, Your Honor, and I do

1 have 12 exhibits. I'll hand them up as part of the facts
2 of the case at the appropriate time.

3 May I approach the bench, Your Honor?

4 THE COURT: You are Sasha Deyond Thomas.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Ms. Price is your lawyer.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You're charged in Indictment 2016-1425
9 with two separate criminal offenses.

10 Count one charges you with felony driving under the
11 influence resulting in great bodily injury.

12 The state alleges that on or about December the
13 30th of 2015 you drove a motor vehicle while you were under
14 the influence of alcohol or drugs or a combination of the
15 two and that you violated an act forbidden by law or you
16 neglected a duty imposed upon you by law in the driving of
17 that motor vehicle.

18 They allege that those acts that you engaged in
19 proximately caused great bodily injury to William Harold
20 Miller, which is a violation of section 15 -- 56-5-2945.

21 If convicted of driving under the influence with great
22 bodily injury resulting you could receive a sentence of up
23 to 15 years in jail.

24 Do you understand that charge and the potential
25 punishment?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Count two of the indictment charges you
3 with driving under suspension. And they allege that on
4 December the 30th of 2015, the same time that you drove a
5 vehicle under the influence, that you were also driving
6 that vehicle after your license or privilege to drive had
7 been canceled, suspended or revoked.

8 Driving under suspension first offense carries an
9 additional potential sentence of up to 30 days in jail.

10 Do you understand that charge and the potential
11 sentence?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you wish to plead guilty or not guilty
14 to the charges?

15 THE DEFENDANT: Guilty.

16 THE COURT: Have you had plenty of time to talk with
17 Ms. Price about your decision?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: How long has she been representing you on
20 these charges?

21 THE DEFENDANT: About nine -- about eight months.

22 THE COURT: And during those eight or nine months have
23 you had plenty of opportunity to discuss the case with
24 her --

25 THE DEFENDANT: Yes.

1 THE COURT: -- and your options so far as coming to
2 court and what you can do?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Did she go over the indictment with you?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Did she explain to you what the state
7 claims that you did?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you understand it?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Did she explain to you what would have to
12 be proven in court before you could be convicted or found
13 guilty of felony driving under the influence?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Of driving under suspension?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Did she tell you what kind of penalty
18 could be imposed if you were found guilty or pled guilty to
19 each of these offenses?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Did you tell her everything you know about
22 the facts that relate to these allegations made against
23 you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And did you and she discuss whether or not

1 you have a defense to the charge of felony driving under
2 the influence?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you?

5 THE DEFENDANT: What?

6 THE COURT: Ma'am?

7 THE DEFENDANT: No, sir.

8 THE COURT: Did you tell her everything you know about
9 the facts that relate to the driving under suspension
10 charge?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Did y'all discuss whether or not you had a
13 defense to that charge?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you?

16 THE DEFENDANT: No, sir.

17 THE COURT: Did she explain to you each of the
18 constitutional rights you have that you must give up if you
19 want to plead guilty?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Did she explain to you that you have a
22 right to remain silent?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And that means you don't have to say
25 anything. You don't have to testify; you don't have to

1 make statements; you don't have to answer questions. In
2 fact, you don't have to answer my questions right now
3 unless you want to plead guilty.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Because you have a right to remain silent
6 if you want to.

7 Do you understand your right to remain silent?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you wish to give it up in order to
10 plead guilty?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Did Ms. Price explain to you your right to
13 confront and to examine any witness in court that would
14 offer evidence against you?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand the right?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you wish to give it up in order to
19 plead guilty?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Did Ms. Price explain to you your right to
22 have a jury trial and to have 12 of your fellow citizens in
23 Spartanburg County hear the case, decide the facts, apply
24 the law and determine whether or not you're guilty of any
25 crime the state claims you committed?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand the right?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you wish to give that right up in order
5 to plead guilty?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Has anybody promised you anything that
8 caused you to make that decision?

9 THE DEFENDANT: No, sir.

10 THE COURT: Has anybody threatened you in any way?

11 THE DEFENDANT: No, sir.

12 THE COURT: Coerced you in any fashion?

13 THE DEFENDANT: No, sir.

14 THE COURT: Put any kind of pressure upon you that
15 caused you to arrive at your decision to plead guilty that
16 you otherwise would not have made?

17 THE DEFENDANT: No, sir.

18 THE COURT: Are you pleading guilty freely and
19 voluntarily?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And are you guilty of each of the crimes
22 just as they are described in this indictment?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: What did you do that makes you guilty?

25 THE DEFENDANT: I drove drunk while not having my

1 operator license.

2 THE COURT: You're 29 years old.

3 THE DEFENDANT: Yes, sir.

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

5 THE DEFENDANT: I have a G.E.D. and some high school,
6 I mean, and some college -- degrees.

7 THE COURT: Where?

8 THE DEFENDANT: On line, Evers University.

9 THE COURT: Where?

10 THE DEFENDANT: Evers University.

11 THE COURT: Evers?

12 THE DEFENDANT: Evers University. It's on line.

13 THE COURT: And what were you studying on line?

14 THE DEFENDANT: Business.

15 THE COURT: Are you married?

16 THE DEFENDANT: No, sir.

17 THE COURT: Do you have children?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: How many?

20 THE DEFENDANT: One.

21 THE COURT: What age?

22 THE DEFENDANT: She's nine.

23 THE COURT: Does she live with you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you work?

1 THE DEFENDANT: Currently, no, sir.

2 THE COURT: What kind of work have you done?

3 THE DEFENDANT: Manufacturing, automotives.

4 THE COURT: For who?

5 THE DEFENDANT: My last job was at Spartanburg Steel,
6 and the one before that was at Leer Corporation.

7 THE COURT: All right. Listen to what the solicitor
8 tells me about the facts that relate to the case, at least
9 those that he would offer to prove if your case went to
10 court and went to trial before a jury.

11 MR. BARNETTE: Thank you, Your Honor.

12 Your Honor, I'm going to go through the exhibits
13 first.

14 State's Exhibit 1, Your Honor, is the incident report
15 that was done by Trooper Cannon in this case, Your Honor;
16 State's Exhibit 2 was the amended traffic accident report,
17 Your Honor, that was done in this case; State's Exhibit 3,
18 Your Honor, is the balance of the wreck.

19 What initially happened was the trooper went there
20 initially had -- had made the victim at fault. The victim
21 actually went to Devore Dermatology and got a video from
22 their camera showing the wreck and showing that the
23 defendant was at fault in this case. And of course the
24 accident report was amended to correctly show that the
25 defendant was at fault in this case and was charged with

1 felony D.U.I. and driving under suspension based off of it.

2 State's Exhibit 4, Your Honor, is the toxicology
3 report from SLED, Your Honor; State's Exhibit 5, Your
4 Honor, is the implied consent form and blood collection
5 form -- or the blood collection form that was used in this
6 case; State's Exhibit No. 6, Your Honor, is the chain of
7 custody that was used for the blood and urine in this case;
8 State's Exhibit 7, Your Honor, is the scam monitoring
9 information. It's actually the booking information from
10 the jail. I'll explain the relevance of that in a second.

11 State's Exhibit 8, Your Honor, is the victim in this
12 case -- Mr. Miller's medical records from Spartanburg
13 Regional when he went to the E.R. after the injuries, Your
14 Honor; State's No. Exhibit 9, Your Honor, is an x-ray
15 showing his clavicle [sic] or his collarbone just actually
16 being shattered in four places; State's Exhibit 10, Your
17 Honor, is a picture of his bruising from that; State's
18 Exhibit 11, Your Honor, is the driving record of the
19 defendant in this case, Your Honor; and State's Exhibit 12
20 is the rap sheet in this case.

21 Your Honor, I'd like to move these as evidence in the
22 case and make them part of the facts in this plea also,
23 Your Honor. And I've shared that with opposing counsel.

24 MS. PRICE: Without objection, Your Honor. I've been
25 provided all of that information and I've gone over it with

1 my client.

2 MR. BARNETTE: May I approach the bench, Your Honor?

3 Briefly going over the facts it's with -- in the
4 materials, Your Honor, this occurred on December 30th of
5 2015, Your Honor, approximately 4:28 p.m., Your Honor.

6 Trooper Cannon was called to the scene of a wreck, Your
7 Honor, at Floyd Road and Plum Creek Road here in
8 Spartanburg, Your Honor, in Spartanburg County.

9 The defendant was driving a 2007 Chrysler, Your Honor.
10 The victim in this case, William Miller, was driving a 2013
11 Chevy Impala, Your Honor.

12 what happened was they was driving down the road, and
13 Ms. Thomas actually cut in front of him and cut him off and
14 caused the wreck, Your Honor, in this case.

15 Mr. Miller was taken to the hospital. You can see his
16 x-rays, Your Honor, his medical records. His collarbone
17 was actually shattered in four different spots. He's had
18 surgery, and I believe he's going to tell the court about
19 that surgery and everything. But I think Reggie Foster,
20 his attorney, is also here. His medical bills are \$60,000
21 at this time.

22 The defendant was taken in. A blood sample was taken,
23 Your Honor, sent to SLED, Your Honor. Her blood alcohol
24 came back at .142, Your Honor, and also had a metabolite
25 for T.H.C. and marijuana metabolite in her blood also, Your

1 Honor.

2 One other thing, Your Honor. I think it's State's
3 Exhibit 7. The reason I've asked for the booking-record
4 information in there, she was placed on a scam monitor,
5 Your Honor. As far as I know she doesn't have any
6 violation. I think Ms. Price is going to go into that.

7 However, she told the person that did the intake at
8 that time that basically she drank every day all day and
9 also used marijuana once a week. And that's on the record
10 there. If you need me to show that to you, I'll be glad
11 to.

12 THE COURT: This was a -- this was an intake on a
13 scam monitor after she was released on bond?

14 MR. BARNETTE: No. Before she was -- well, she was
15 given bond. Before she was released from the jail she told
16 them that.

17 THE COURT: I know, but on this charge.

18 MR. BARNETTE: Yes, sir, yes, sir.

19 THE COURT: And there's been no violation of the scam
20 monitor?

21 MR. BARNETTE: As far as I know there has not. Ms.
22 Price, I think, is going to go into that, Your Honor --

23 MS. PRICE: Yes, sir. That's right.

24 MR. BARNETTE: -- in this case, Your Honor. And I
25 know the victim would like to speak at the appropriate

1 time, Your Honor.

2 Him and his son is both here, as well as his attorney,
3 Reggie Foster, which is also a personal friend also from
4 what I understand.

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

6 MR. BARNETTE: Your Honor, I believe Mr. Miller will
7 address the Court first and then follow up with anybody
8 else after that if that's okay.

9 THE COURT: All right.

10 THE VICTIM: After the accident occurred, of course,
11 you know, the immediate thing was when you get your
12 collarbone -- I never had a broken bone in my life. I had
13 this thing that was shattered in four or five pieces.

14 It knocked me out. I don't really remember much of
15 the wreck. Obviously, a lot of pain. Went to the
16 hospital. The surgery, they had to put a steel plate in my
17 shoulder and screw it down to the bones to piece it back
18 together.

19 One of the bad things that happened during that period
20 of time for me was there was -- there was some insurance
21 complications, and nothing to do with, you know, anybody
22 other than insurance companies. But it delayed the surgery
23 for two weeks.

24 During that two weeks -- I'd never been on any pain
25 medication other than, you know, sore throats, this kind of

1 thing people typically go through. And I was on pain
 2 medication for a couple of weeks to be able to tolerate the
 3 -- the shattered collarbone. That was -- ended up being a
 4 pretty bad deal for my -- you know, for your stomach and
 5 your body. If you've ever -- anybody ever gone through
 6 that for two weeks. That was sort of bad.

7 After that two weeks was up I had the surgery. They
 8 placed -- they told me at the time it was either going to
 9 be a 1-surgery or two surgeries dependent upon the kind of
 10 plate they put in my shoulder. It looks -- it appears as
 11 though one shoulder -- one surgery is all it's going to
 12 take.

13 It was pretty complicated. I was in the hospital
 14 overnight to do it. For two weeks I couldn't drive. I
 15 really couldn't do anything. That was trying to let the --
 16 the bone essentially heal to where the screws and the plate
 17 would not move. So for two weeks I didn't do anything.
 18 That means work. Fortunately with my work, the company I
 19 work for is -- they're very understanding. I was able to
 20 basically stay home and not do anything.

21 My job involves travel with a lot of airlines and
 22 cars, a lot of driving across the United States and outside
 23 of the country some.

24 So I didn't do anything for two weeks. After -- then
 25 I had to wait a total of about -- I don't know -- maybe a

1 month or two, my recollection, before I could start any
2 physical therapy. And physical therapy lasted three to
3 four months, along with doctor visits.

4 I still -- still couldn't drive until that shoulder
5 had healed enough to where I was comfortable driving with
6 two hands, so a lot of -- a lot of time spent away from
7 work. I didn't do much of anything really for the first
8 six months of the year.

9 I continued to get paid during that time. That was
10 not -- that was not a negative for me. It did probably
11 affect my work some. And my business is the -- had regular
12 engagement with people around the country, which I was
13 unable to do other than via telephone.

14 After that period of time I'd say the effects on me
15 that I think people need to understand is when something
16 happens like that is -- you know, as the orthopedic surgeon
17 told me that did my surgery, I'm going to have lifelong
18 effects from this that will not go away.

19 This shoulder here is still -- it's hard to quantify,
20 but it's still numb. I wouldn't say it's a hundred percent
21 numb, but it's still numb. Every -- there's not a day that
22 I go by when I move that my shoulder doesn't remind me.
23 It's very stiff. I still do physical therapy at home.
24 It's just -- it doesn't go away.

25 During that period of time in 2016 because of the

1 injury, you know, the thing that probably affected me the
2 most, I have six grandchildren, and I was unable for the
3 first six months really to pick them up and do any playing
4 with them. They're all from, you know, one year old up to
5 seven years old. And I -- I couldn't do a lot with them.
6 And I still -- I'm still a little bit limited, but I'm --
7 I'm getting back to more normal.

8 It's just -- you know, it's just uncomfortable.
9 There's not a night that goes by, basically, that I don't
10 have some waking up in the middle of the night. And if I
11 roll over, it's okay. But that was, you know, the
12 numbness. I'm just -- it just doesn't go away.

13 I missed a vacation which had been a long-planned
14 vacation the second week of January that a group of college
15 friends and our wives were all supposed to go on, and I
16 couldn't make it. That was a -- for me -- it wasn't a
17 regular vacation. It was one of those -- I won't say once
18 in a lifetime -- but it was a big vacation and had been
19 planned, and it was washed down the drain. If I'll ever
20 get to do that again, I don't know. So it took away
21 something. That part of it was -- for me, you know, I
22 missed something I really wanted to do.

23 My wife took a good bit of time off from work. She
24 works at the hospital there at Spartanburg Regional, and
25 she took a good bit of time off of work taking me to

1 doctors' visits, driving me to places I had to go.

2 And then, you know, the last thing was the cost. Mr.
3 Barnette said it's -- you know, medical bills at this point
4 are over \$60,000. I do have health insurance. It's paid
5 for a portion of that. And my standard -- by my billfold I
6 still had a substantial amount to come out of my pocket for
7 that. And that's -- that's the impacts on me.

8 THE COURT: Okay. Thank you, sir.

9 THE VICTIM: You're welcome.

10 MR. FOSTER: If it please the Court, Your Honor.

11 what -- what Tim may not have wanted to cover, I've
12 known Tim for 44 years. We met our first night at
13 Clemson -- don't hold that against him -- when we were
14 freshmen, lived on the same hall. I've known him ever
15 since.

16 Tim has been one of those guys that can talk to a
17 wall. He doesn't meet strangers. He is very gregarious.

18 One of the impacts of this accident forced him to go
19 see his family doctor for depression as well and he -- he
20 doesn't like to talk about that. But he went through a
21 time when he couldn't sleep. He had wakelessness,
22 sleeplessness, and had to go seek some additional care
23 that -- that was necessary. Beyond that he's -- he's
24 spoken well of his situation.

25 I would just like to correct one thing about the

1 accident. Tim was making a left turn into his doctor's
2 office when Ms. Thomas attempted to pass him and hit him in
3 the driver's side.

4 The initial story that she told to the responder was
5 that Tim had cut her off and had driven in front of her
6 from a roadway to the right. So it's of importance to us
7 that she lied to the -- to the patrolman and only was held
8 accountable at all when we found the video surveillance
9 from the doctor's office.

10 So initially she did her best to put the blame on
11 Mr. Miller by making up a story that he pulled out of the
12 side road. Maybe she was so drunk she didn't know what had
13 happened. I don't know. But, consequently, we had to do
14 the leg work to show that she was at fault for this
15 accident. So we'd ask you to take all of that into
16 consideration.

17 THE COURT: Okay.

18 MR. BARNETTE: Thank you, Your Honor.

19 THE COURT: Solicitor, to save me some time from going
20 through this driving history, how many prior driving under
21 the influence convictions does she have?

22 MR. BARNETTE: She had a D.U.I. conviction in 2010,
23 Your Honor. She had a previous D.U.I. -- D.U.S. in 2010,
24 Your Honor, but the 5-year period has ran. That's why this
25 is being treated as a first, Your Honor.

1 On her rap sheet, Your Honor, she has a 2005 burglary
2 second conviction, an ABHAN, either use of tools or escape.
3 It's listed both ways, Your Honor. And I believe she had a
4 probation violation on that in 2008. And I believe she had
5 failure to pay traffic tickets and other traffic violations
6 on her. That's the reason for the suspension.

7 THE COURT: All right. Ms. Thomas, you've heard what
8 the solicitor has told me about the facts that relate to
9 the case.

10 THE DEFENDANT: Yes.

11 THE COURT: Do you agree or disagree with what he
12 stated?

13 THE DEFENDANT: I disagree with some of them.

14 THE COURT: What do you disagree with?

15 THE DEFENDANT: The fact that I did tell -- well, I
16 told the state trooper what I remembered. It's not -- not
17 that I was too drunk. It's just what I seen in my own eyes
18 like. And from my point of view that's what it looked
19 like.

20 I was driving down the road and a car came from my
21 right side to make a left, but it wasn't that I was just
22 drunk and I couldn't see, but that's what it looked like to
23 me, that a person was -- came in front of me, not that I
24 turned or went around. And even when I seen the video when
25 the state trooper brought it to my house like a week before

1 they even had the charges, the car was just sitting in the
2 middle of the road, like it was just not -- on the video it
3 wasn't --

4 THE COURT: Well, am I understanding that Mr. Miller
5 was making a left turn?

6 MR. BARNETTE: She went --

7 THE COURT: He was in the left-turn lane. He was
8 making a left turn, and she went on the wrong side of the
9 road to pass him and hit him when he turned?

10 MR. FOSTER: Well, a 2-lane road on Floyd Road, Your
11 Honor, so 2-lane road he's in the lane of travel.

12 THE COURT: He's turning left.

13 MR. FOSTER: Turning left.

14 THE COURT: And she had to go into the oncoming lane
15 of traffic to pass him as he turned --

16 MR. FOSTER: Yes, sir.

17 THE COURT: -- and she hit him in the driver's side?

18 MR. FOSTER: Yes, sir. Double yellow line.

19 THE COURT: Right. All right. Ms. Thomas, you're
20 saying that's not what happened?

21 THE DEFENDANT: I was just -- it's just how I see it.
22 I don't -- I don't really know what happened. I seen the
23 video. I just remember what I --

24 THE COURT: Well, did you -- did you know where you
25 were, you were on Floyd Road, 2-lane road, with a double

1 yellow line marking the lane?

2 THE DEFENDANT: Yes. That is correct.

3 THE COURT: Okay. And there was a car in front of you
4 which was Mr. Miller. Do you remember that?

5 THE DEFENDANT: I don't understand.

6 THE COURT: You don't remember seeing Mr. Miller in
7 front of you?

8 THE DEFENDANT: Not like -- like this. Not like this.

9 THE COURT: Well, I'm not talking about any direction.
10 What I'm talking about, you don't remember seeing a vehicle
11 in front of you on Floyd Road?

12 THE DEFENDANT: No, sir. I really don't.

13 THE COURT: But you're saying being drunk didn't have
14 anything to do with that? You didn't see a car in front of
15 you?

16 THE DEFENDANT: I didn't see it.

17 THE COURT: Well, then you must have been drunk.

18 THE DEFENDANT: I'm not saying that.

19 THE COURT: I mean, I know you're not disputing you
20 were drunk, but you just said just a few minutes ago that
21 being drunk didn't have anything to do with it, or you told
22 the highway patrolman that's the way you saw it.

23 THE DEFENDANT: Yeah. That's how --

24 THE COURT: That being drunk had nothing to do with
25 it. Well, if you didn't even see the car, being drunk had

1 to have a lot to do with it, didn't it?

2 THE DEFENDANT: You're right.

3 THE COURT: Sounds like to me you're still trying to
4 avoid responsibility.

5 THE DEFENDANT: Oh, definitely, no.

6 THE COURT: You're not?

7 THE DEFENDANT: No, sir.

8 THE COURT: All right. All right. Ms. Price.

9 MS. PRICE: Thank you, Your Honor.

10 As you've heard, this is a straight-up plea.

11 THE COURT: Excuse me. One other thing.

12 Now, you heard what he told me about your history
13 also.

14 THE DEFENDANT: Yes.

15 THE COURT: Is that accurate?

16 THE DEFENDANT: Yes.

17 THE COURT: Okay. Ms. Price.

18 MS. PRICE: Thank you, Your Honor.

19 As you've heard, this is a straight-up plea. Mr.
20 Barnette contacted me and said there was no offer in this
21 case. I informed Ms. Thomas of that.

22 I do need to let Your Honor know that I have been
23 representing her since she came into the public defender's
24 office and signed up. I was assigned her case.

25 She has been very proactive in helping me deal with

1 her case. She has -- I've talked with her on the phone
2 numerous times. She's also been in the office at my
3 request. She has carved out a block of time around her
4 work schedule.

5 She was working at Spartanburg Steel until October the
6 20th of this year when she was laid off. Right now she's
7 drawing unemployment, but she's actively still looking for
8 work.

9 As you have heard, she has a 9-year-old daughter that
10 she has custody of.

11 And she actually has been bonded out of the jail for
12 the last 332 days. When she was bonded out of the jail one
13 of the conditions of her bond was the scam monitoring,
14 which, as you know, is the alcohol monitor.

15 I called Nora over at home detention this morning to
16 verify and see how Ms. Thomas was doing. As you know, our
17 home detention department is, in my opinion, a very good
18 department, very proactive. If they suspect any
19 violations, they immediately look into those, Your Honor.

20 She has never had any violations. She has been
21 continuously on this monitor, and for 332 days no alcohol
22 detected whatsoever.

23 I spoke with Ms. Thomas about the situation that she
24 found herself in that led to her drinking pretty much in
25 the middle of the day to the point where she was extremely

1 intoxicated, Your Honor. You already have a copy of the
2 blood draw. She was nowhere even close to the legal
3 threshold limit.

4 She said that at the time that happened she was having
5 some issues with her daughter's father and she was having
6 some financial issues.

7 And then she said something that I thought was very,
8 very telling and profound, tells her state of mind right
9 now. She said for so long my outlet was alcohol but not
10 any more.

11 Ms. Thomas has in my opinion made some real change in
12 her life as far as alcohol goes. If she had drunk
13 anything, Your Honor, it would have shown up in that scam
14 monitor and she'd be back in jail and she wouldn't be in
15 street clothes right now.

16 So she has done everything at this point that I have
17 asked her to do as a client as far as getting herself
18 together.

19 Ms. Thomas has been a very good client. I just ask
20 Your Honor to take all of this into consideration,
21 considering the time that she has spent without drinking,
22 the time that her daughter that she has custody of that she
23 has in her home -- she has not had any issues, Your Honor,
24 as far as I'm concerned as her lawyer and the time I've
25 been representing her. And I would ask Your Honor to

1 fashion a sentence to -- taking all of that into
2 consideration.

3 I've explained to her what the state would have to
4 prove, what I expect the state would prove, and she said I
5 don't want a trial, I'm guilty and I need to accept that.
6 Thank you, Judge.

7 THE COURT: The blood alcohol was .14?

8 MS. PRICE: Yes, sir.

9 MR. BARNETTE: .142, Your Honor.

10 THE COURT: Yeah. You said that was not the threshold
11 for what?

12 MS. PRICE: I said it was nowhere near the legal limit
13 threshold. It was significantly above.

14 THE COURT: Oh, excuse me. I thought you meant it
15 didn't rise to it.

16 MS. PRICE: Oh, no, no.

17 THE COURT: Was -- yes. And also had you been smoking
18 marijuana also?

19 THE DEFENDANT: I haven't since I've been on the
20 monitor.

21 THE COURT: No. I'm talking about -- right now I'm
22 talking about things that happened prior to the accident.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: So you had been drinking that day and had
25 been smoking marijuana?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. All right. What would you like to
3 add to what your lawyer has told me?

4 THE DEFENDANT: I just want to apologize because this
5 has been a life experience for me. It changed me in
6 numerous ways. I never meant to hurt anyone. I was just
7 going through a lot. And I just want to apologize.

8 THE COURT: Well, Ms. Thomas, I do appreciate the fact
9 that when you were placed on the scam monitor you didn't
10 violate it, but, you know, that's sort of a commonsensical
11 thing in my view, is that when you're being supervised you
12 behave yourself because you haven't been to court yet. So
13 that's obviously something you need to do.

14 But what I want to know is what did you do after the
15 2010 driving under the influence. What did you do to
16 address your apparent issue with alcohol and drugs?

17 THE DEFENDANT: I had took the SADAC class. I had
18 took --

19 THE COURT: How long did that last, 28 days or
20 something, or six weeks, classes?

21 THE DEFENDANT: I can't remember. Probably six weeks.

22 THE COURT: Okay. And what happened after that six
23 weeks?

24 THE DEFENDANT: Life.

25 THE COURT: Life?

1 THE DEFENDANT: Life.

2 THE COURT: Did that cause you to turn to drinking and
3 drugs?

4 THE DEFENDANT: Yeah. You know, it --

5 THE COURT: Did you go back to seek additional
6 treatment?

7 THE DEFENDANT: I haven't been able because I'm not
8 able to drive. So my transportation is my mother.

9 THE COURT: I'm talking about before -- just a minute.
10 I'm talking about before December the 30th of 2015. You
11 knew you had an issue; you knew you had a problem. So what
12 did you do to address it? You were driving then.

13 THE DEFENDANT: I went to see a therapist in Boiling
14 Springs that Leer Corporation paid for. I talked to her
15 about everything.

16 She wanted me to go get some depression medicine, but
17 I was on Prozac when I was little and it didn't work with
18 me. So I just continued to talk to her. And she told me
19 my outlet -- my positive outlet is my writing because
20 that's what I do. I write poetry. That's what I had been
21 doing. And at the same time I was still going through a
22 lot. So even if -- I relapsed. I did. But I've been
23 trying and I've been doing better. I go to church every
24 Sunday. I'm real active inside my church home.

25 THE COURT: What time of the day was this on

1 December the 30th?

2 MR. BARNETTE: 4:28 p.m. Your Honor.

3 THE COURT: And when you went to be fitted with the
4 scam monitor did you tell them what the solicitor said?
5 You told them that you drink every day all day?

6 THE DEFENDANT: He asked me. He said if I was to drug
7 test you right now --

8 THE COURT: who is he?

9 THE DEFENDANT: The man that -- yes. I told them that
10 I drank and I smoked weed prior to being arrested.

11 THE COURT: well, did you say you did that every day
12 all day?

13 THE DEFENDANT: Yes. I probably said I drink every
14 day.

15 THE COURT: Okay. And so why weren't you doing
16 something to address that problem before December the
17 30th of 2015?

18 THE DEFENDANT: My mind wasn't in the right place.

19 THE COURT: All right. what else would you like to
20 tell me, Ms. Thomas?

21 THE DEFENDANT: I would -- I would like to tell you
22 that I really would like a second chance. I have learned.
23 This has been a real experience for me. I can see things
24 clearly now.

25 I haven't been able to seek alcohol for any issues

1 that I've been going through since I been on the monitor.
2 I had to find another way to get through anything that I
3 was going through, and I have, and it has helped me a lot.
4 Monitoring did help me a lot, a whole lot.

5 And I just wanted to say to the -- the victims that
6 I'm really sorry. I truly am sorry. I didn't mean to harm
7 any -- anything I've caused, any discomfort, any loss of
8 anything, I really apologize.

9 THE COURT: Ms. Thomas, did Ms. Price explain to you
10 there's also a mandatory fine that has to be imposed in
11 this case?

12 THE DEFENDANT: Yes.

13 THE COURT: Are you aware of that?

14 What's the issue of the restitution? Is that to be --

15 MR. BARNETTE: Your Honor, we -- we're not asking for
16 it. We'll leave it up to the Court to decide that.

17 THE COURT: Well, you can't leave it up to me because
18 I don't have any proof of it. I mean, what I'm saying is
19 if you're seeking restitution I'll need to -- I'll need --
20 I mean, I don't know if you could ever get it, but at the
21 same time --

22 MR. BARNETTE: Your Honor, we're not asking for
23 restitution in this case.

24 THE COURT: Okay. On Indictment 2016-1425, indictment
25 for felony driving under the influence -- count one, is the

1 driving under the influence -- Sentence of the Court is
2 you, Sasha Deyond Thomas, be confined to the South Carolina
3 Department of Corrections for a period of 15 years and pay
4 a fine of \$10,000, provided that sentence is suspended upon
5 the service of 90 months and payment of \$5,100 plus the
6 costs and assessments followed by five years of probation.

7 Conditions of that probation, you are to successfully
8 complete substance abuse counseling and treatment, submit
9 to random drug and alcohol testing, pay \$500 for your
10 appointed lawyer.

11 You will also be required to undergo a substance abuse
12 evaluation and follow their treatment recommendation,
13 whether that be an inpatient or an outpatient program.
14 That's what you have to do as a condition of your release
15 on probation.

16 As to count two, driving under suspension, 30 days
17 concurrent.

18 END OF REQUESTED TRANSCRIPT OF RECORD
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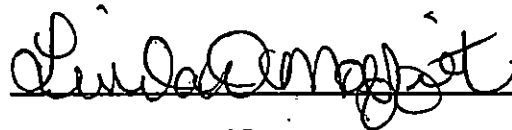
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CERTIFICATE

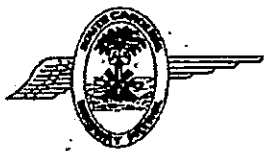
I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 15th day of December 2016.

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

July 21, 2017



Linda D. Moffitt
Circuit Court Reporter



South Carolina Highway Patrol Arrest Warrant Affidavit

Suspect's Information:

Name: SASHA DEYOND THOMAS Home Phone: _____
 Address: _____ Work Phone: _____
MAYO SC 29368 SSN: _____
 DOB: _____ Sex: F Race: B Height: 5'02" Weight: 140 Hair: Black Eyes: Brown
 Driver's License Number: _____ State: SC

Offense Information:

Time of Arrest: 1903 Location of Offense: FLOYD ROAD @ PLUM CREEK ROAD
 Date of Arrest: 12/30/2015
 Offense #1: FELONY DUI Statute: 56-5-2945 Subsection: NA
 Offense #2: _____ Statute: _____ Subsection: _____
 Offense #3: _____ Statute: _____ Subsection: _____
 Offense #4: _____ Statute: _____ Subsection: _____
 Affiant's Name: TRP. J.D. CANNON Badge Number: T-389

**I DO HEREBY SWEAR OR AFFIRM ALL OF THE FOLLOWING INFORMATION IS THE TRUTH,
THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH.**

PAGE 1
 ON 12/30/2015 I WAS DISPATCHED TO A COLLISION ON FLOYD ROAD NEAR PLUM CREEK ROAD. WHEN I ARRIVED ON SCENE I OBSERVED THAT FIRE AND EMS WERE TREATING BOTH PARTIES. THE DRIVER OF THE 2007 CHRYSLER WAS LYING ON THE GROUND, SCREAMING, CRYING AND ACTING ERRATIC. HER PASSENGER WAS BEING TRANSPORTED PRIORITY TO SPARTANBURG REGIONAL DUE TO A HEAD INJURY. THE DRIVER OF THE 2013 CHEVROLET IMPALA WAS SITTING IN HIS VEHICLE DUE TO A BROKEN COLLAR BONE AND HIS DRIVER'S SIDE DOOR BEING PINNED SHUT, AWAITING EMS TRANSPORT. I APPROACHED THE DRIVER OF THE CHRYSLER AND HAD HER STAND UP. I IMMEDIATELY SMELLED A STRONG ODOR OF ALCOHOL COMING FROM HER PERSON. I IDENTIFIED THE DRIVER AS A SASHA THOMAS OF NC. HOWEVER MS. THOMAS STATED THAT SHE LIVED IN MAYO SC. WHEN ASKED WHY SHE DID NOT HAVE A SC DRIVERS LICENSE SHE STATED IT WAS DUE TO NOT HAVING TIME, BUT HAD BEEN LIVING HERE A YEAR. I ASKED MS. THOMAS IF SHE HAD CONSUMED ANY ALCOHOL THAT DAY AND SHE STATED EARLIER THAT DAY. I PREFORMED STANDARDIZED FIELD SOBRIETY TEST AND DETERMINED THAT MS. THOMAS WAS UNDER THE INFLUENCE AND AT THIS TIME PLACED HER UNDER ARREST. SHE WAS ADVISED OF HER MIRANDA WARNINGS AND PLACED IN THE FRONT SEAT OF MY PATROL VEHICLE. MS. THOMAS STATED THAT THE OTHER DRIVER FAILED TO YIELD TO HER. THE OTHER DRIVER STATED THE HE COULD NOT REMEMBER. DUE TO THE EVIDENCE AT THE SCENE, MS. THOMAS WAS RULED NOT AT FAULT IN THE COLLISION. I BEGAN TRANSPORTING MS. THOMAS TO THE SPARTANBURG COUNTY DETENTION CENTER, BUT PRIOR TO OUR ARRIVAL SHE COMPLAINED THAT SHE WAS UNABLE TO BREATHE AND WANTED MEDICAL ATTENTION. AT THIS TIME I ADVISED DISPATCH OF OUR CHANGE IN ROUTE AND TRANSPORTED HER TO SPARTANBURG REGIONAL. UPON ARRIVAL TO REGIONAL SHE WAS PLACED IN AN ER ROOM AND ADVISED OF HER IMPLIED CONSENT. MS. THOMAS SIGNED AND AGREED TO SUBMIT A URINE/BLOOD SAMPLE. SHE WAS TREATED FOR HER INJURIES AND DISCHARGED. WHILE AT THE HOSPITAL I DISCOVERED THAT MS. THOMAS HAD A SC DRIVER'S LICENSE THAT WAS CURRENTLY SUSPENDED AND SHE HAD A PRIOR DUI FROM 2010. I TRANSPORTED MS. THOMAS TO THE SPARTANBURG COUNTY DETENTION CENTER, WHERE SHE WAS BOOKED IN FOR DUI 2ND OFFENSE, DUS 1ST OFFENSE AND FALSE INFORMATION TO POLICE. UPON FURTHER INVESTIGATION OF THE COLLISION, IT

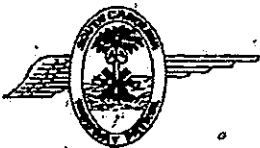
WAS PROVED THAT MS. THOMAS WAS AT FAULT IN THE COLLISION, THEREFORE THE TR-310 WAS AMENDED. VIDEO EVIDENCE PROVES THAT THE DRIVER OF THE CHEVROLET IMPALA WAS SLOWING DOWN TO MAKE A LEFT TURN INTO HIS DOCTOR'S OFFICE. CONTINUED ON PAGE 2

Signature of Affiant: _____

Date: _____

Person Signing Warrant for Affiant

Magistrate Signature



South Carolina Highway Patrol Arrest Warrant Affidavit

Suspect's Information:

Name: SASHA DEYOND THOMAS Home Phone: _____
 Address: _____ Work Phone: _____
MAYO SC 29368 SSN: _____

DOB: _____ Sex: F Race: B Height: 5'02" Weight: 140 Hair: Black Eyes: Brown

Driver's License Number: _____ State: SC

Offense Information:

Time of Arrest: 1903 Location of Offense: FLOYD ROAD @ PLUM CREEK ROAD
 Date of Arrest: 12/30/2015

Offense #1: FELONY DUI Statute: 56-5-2945 Subsection: NA
 Offense #2: _____ Statute: _____ Subsection: _____
 Offense #3: _____ Statute: _____ Subsection: _____
 Offense #4: _____ Statute: _____ Subsection: _____

Affiant's Name: TRP, J.D. CANNON Badge Number: T-389

**I DO HEREBY SWEAR OR AFFIRM ALL OF THE FOLLOWING INFORMATION IS THE TRUTH,
THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH.**

PAGE 2

MS. THOMAS IN FEAR OF STRIKING HIM IN THE REAR PASSES HIM UNLAWFULLY. MS. THOMAS BEGINS TO PASS AT THE SAME TIME THE DRIVER OF THE IMPALA IS TURNING. SCHP SUPERVISION AND THE SOLICITOR'S OFFICE HAVE DISCUSSED THE COLLISION AND THE INJURIES SUSTAINED BY THE DRIVER OF THE IMPALA, MS. THOMAS WILL NOW BE CHARGED WITH FELONY DUI, GREAT BODILY INJURY.

Signature of Affiant: _____

Date: _____

Person Signing Warrant for Affiant

ORIGINAL-AMENDED

SOUTH CAROLINA DPS/DHS & DMV USE ONLY		Page # 1	SOUTH CAROLINA TRAFFIC COLLISION REPORT FORM TR-310 (Rev. 11/2011)		# Of Units 02	<input checked="" type="checkbox"/> Amended - Attach Copy of Original Report <input type="checkbox"/> Corrected	Notified 1630	Arrived 1645							
Date 12-30-2015	Time of Collision 1628	County 42	1-Interstate 2-US Primary 3-SC Primary	4-Secondary 5-County 6-PP	Collision Location (Rt. # / Name) 6 / FLOYD RD		0-Main Line 2-Alternate 5-Spur	6-Connection 7-Business	Miles: 1.11	Dir. N E S W	In (Near) City or Town of: SPARTANBURG				
Lane # / Dir. # 1 2	Distance Offset 17	Direction N E S W	1-Interstate 2-US Primary 3-SC Primary	4-Secondary 5-County 6-Other	Base Intersection (Rt. # / Name) / PLUM CREEK RD		0-Main Line 2-Alternate 5-Spur	6-Connection 7-Business 9-Other	GPS COORDINATES 00 00' 00.00" DEGREES MINUTES SECONDS						
R.R. Id.	From N E S W	Ramp Only 1-Entrance 2-Exit	To N E S W	1-Interstate 2-US Primary 3-SC Primary	4-Secondary 5-County 6-Other	Second Intersection (Rt. # / Name) / FLOYD CABIN RD		0-Main Line 2-Alternate 5-Spur	6-Connection 7-Business 9-Other	Latitude 0	Longitude 81 54 03.74				
M-129560 Driver/Pedestrian's Full Name MILLER WILLIAM HAROLD				M-129561 Driver/Pedestrian's Full Name THOMAS SASHA DEYOND											
Unit # 01	Sex M	Race W	Street		Unit # 02	Sex F	Race B	Street							
POC 1	Birth Date		City, State, & Zip SPARTANBURG SC 293011206		POC 1	Birth Date		City, State, & Zip MAYO SC 29368							
State SC	Driver's License #	Class D	Insurance Company PENN NATIONAL		State SC	Driver's License #	Class ID	Insurance Company PERMANENT GENERAL							
Year 2013	Body 4S	Vehicle Make CHEV	VIN # 2G1WF5E31D1144751		Year 2007	Body 4S	Vehicle Make CHRY	VIN # 1G3LC56K77N563137							
State NC	Year 2016	License Plate # ZXL6399	Owner's D.L. # NONE		State SC	Year 2016	License Plate # 7075GN	Owner's D.L. #							
Home Telephone (864)		Owner's Full Name BW FIBERGLASS INC				Home Telephone (864)		Owner's Full Name THOMAS SASHA DEYOND							
Bus. Telephone (864)		Street 100 GLASS WAY				Bus. Telephone ()		Street							
Contributed To Collision Yes () No (X)		City, State, & Zip SHELBY NC 28152				Contributed To Collision Yes (X) No ()		City, State, & Zip MAYO SC 29368							
Estimated Speed 10	Speed Limit 35	C.D.L. Req: Yes () No (X)	T/B/S Rec: Yes () No (X)	Alc/Drg Info (see back): Yes () No (X)		Estimated Speed 35	Speed Limit 35	C.D.L. Req: Yes () No (X)	T/B/S Rec: Yes () No (X)	Alc/Drg Info (see back): Yes () No (X)					
Summons #		Code	Summons #		Code	Summons #		Code	Summons #		Code				
			BRANTS(REQ)			H555496			99		BYRDS(ROT)				
Driver/Pedestrian's Full Name				State				Year		License Plate #					
Unit #	Sex	Race	Street		Home Telephone ()		Owner's Full Name								
POC	Birth Date		City, State, & Zip		Bus. Telephone ()		Street								
State	Driver's License #	Class	Insurance Company		Contributed To Collision Yes () No ()		City, State, & Zip								
Year	Body	Vehicle Make	VIN #		Estimated Speed		Speed Unit	C.D.L. Req: Yes () No ()	T/B/S Rec: Yes () No ()	Alc/Drg Info (see back): Yes () No ()					
Dir. of Travel: Unit 1: N S (E) W		Unit 2: N (S) E W		Unit 3: N S E W		Summons #		Code	Summons #	Code	Towed By	Yes No			
				Unit 1 Dam.		Unit 2 Dam.		Unit 3 Dam.		Prop. Dam. 1		Prop. Dam. 2			
				\$ 4000		\$ 3000		\$		\$		\$		\$	
				Property Owner/Witness:						Property Owner/Witness:					
				Address:						Address:					
				State		Zip:	Phone		State		Zip:	Phone		State	
Photos: Describe What Happened (Refer to Units by Number)															
Y (M)															
UNIT #1 AND UNIT #2 WERE TRAVELING SOUTH ON FLOYD ROAD. UNIT #1 WAS TURNING LEFT INTO A PRIVATE DRIVE. THE DRIVER OF UNIT #2, DRIVING UNDER THE INFLUENCE MADE AN EVASIVE MANEUVER IN LIEU OF STRIKING UNIT #1 IN THE BACK. HOWEVER, WHEN UNIT #2 PASSED UNLAWFULLY, SHE STRUCK UNIT #1 IN THE DRIVERS REAR DOOR.															
1/8/2016: UNIT #1 WAS ORIGINALLY AT FAULT, DUE TO VIDEO EVIDENCE, UNIT #1 IS NO LONGER AT FAULT. REPORT WAS AMENDED															
NOTICE - THE TR-310 IS FOR STATISTICAL REPORTING PURPOSES ONLY AND IS A REFLECTION OF THE OFFICER'S BEST KNOWLEDGE, OPINION AND BELIEF COVERING THE COLLISION BUT NO WARRANT IS MADE AS TO THE FACTUAL ACCURACY THEREOF.															
Investigating Officer's Name CANNON - J D		Rank TRP	Badge # T 3 8 8	Jurisdiction Code H P 0 3	Review Date 01-04-2016	Reviewer's Name M A Franks		Rank Cpl	Internal Agency Code 15GV255623						



Unit	Date of Birth	Sex	Race	LNJ	Seat	R/S/D	A.B.D.	Eject	LAI	Tran	Name	Street Address	Zip Code
01		M	W	2	01	13	4	3	1	3	MILLER WILLIAM HAROL	SPARTANBU SC	293011208
02		F	B	0	01	13	1	3	1	2	THOMAS SASHA DEYON	MAYO SC	29368

Race	A-Asian/Pacific Islander B-African American C-Alaskan Native or American Indian	W-Caucasian H-Hispanic O-Other U-Other	a) Injury Status 0-Not Injured 1-Possible Injury 2-Non-incapacitating 3-Incapacitating 4-Fatal	Seating Loc. 01 02 03 04 05 06 07 08 09	20-Pedestrian 30-Trailng Unit 40-Bus or Van (4th row or Higher) 50-Other Enclosed Area (nontrailing) 51-Other Unenclosed Area (nontrailing)	60-Sleeper of Cab 70-Riding on Unit Exterior 80-Lap 89-Unk./NA 99-Unk.	Restrain/Safety Device 00-None Used 11-Shoulder belt 12-Lap Belt Only 13-Shoulder & Lap Belt 21-Child Safety Seat 68-Other 51-Reflective Clothing 41-Protective Pads 61-Lighting
Air Bag Deployment / Switch	1-Deployed Front 2-Deployed Side 3-Deployed Both	4-Not Deployed 5-Deployment Unk. 6-Deployment Unk.	Ejection 1-Not Ejected 2-Part. Ejected 3-Tot. Ejected 7-Not App.	b) 2 or 3 Wheel Motorized Vehicle Head Injury: 1-Yes 2-No Location After Impact: 3-Freed (non-mech.) 1-Not Trapped 2-Extricated (Mechanical Means) 3-Freed (non-mech.) 4-Not Applicable 9-Unknown	a) Transported to Medical Facility 1-Yes 2-No 3-Unknown	b) By: 1-EMS 2-Police 3-Other 4-Other 5-Other 6-Other 7-Other 8-Other 9-Other	31-Helmet 51-Reflective Clothing
Sequence of Events							
Non-Collision							
Collision: Not Found							
Collision: Fixed Object							
Collision: Other							
Manner of Collision (Struck Veh.)							
Vehicle Type							
Vehicle Use Code							
Vehicle Attachment							
Action Prior to Impact							
Weather Condition							
Light Condition							
Junction Type							
Primary Contributing Factors							
Roadway							
Non-Motorist							
Environmental							
Obstruction							
Vehicle Defect							

Mail FR-10 to: SC Department of Motor Vehicles Office of Financial Responsibility (803) 896-5900 PO Box 1498, Blythewood, SC 29016-0050		SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES FR-10 (REV. 11/2011) NOTICE OF REQUIREMENT		Submit Electronically. Agents or Company Representatives can submit your insurance information at WWW.SC-ALR.COM		
Date 12-30-2015	Time 1628	County 42	1-Interstate 2-US Primary 3-SC Primary	4-Secondary 5-County 6-PP	Collision Location (Rt. # / Name) 5 / FLOYD RD	
Main line 2-Alternate 5-Spur		6-Connection 7-Business		Miles: 1.11	Dir. N E S W	
In (Near) City or Town of: SPARTANBURG						
To Vehicle Owner/Operator Failure to return this form to the Department of Motor Vehicles within 15 days from the date of the collision could result in the suspension of your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.						
M-129560 Driver/Pedestrian's Full Name MILLER WILLIAM HAROLD			M-129561 Driver/Pedestrian's Full Name THOMAS SASHA DEYOND			
Unit # 01	Sex M	Race W	Street 185 WOODRIDGE DR	Unit # 02	Sex F	
Birth Date 1		City, State, & Zip SPARTANBURG SC 293011208		City, State, & Zip MAYO SC 29368		
State SC	Driver's License # D	Insurance Company: PENN NATIONAL		State SC	Driver's License # ID	
Year 2013		Body 4S	Vehicle Make CHEV	VIN # 2G1WF5E31D1144751	Year 2007	
Year 2016		License Plate # ZXL6399	Owner's D.L. # NONE		Year 2016	
Home Telephone (864)		Owner's Full Name BW FIBERGLASS INC		Home Telephone (864)		
Bus. Telephone (864)		Street 100 GLASS WAY		Owner's Full Name THOMAS SASHA DEYOND		
Contributed To Collision Yes (No)		City, State, & Zip SHELBY NC 28152		Contributed To Collision Yes (No)		
City, State, & Zip MAYO SC 29368						
Driver/Pedestrian's Full Name						
Unit # 01		Sex M	Race W	Street 185 WOODRIDGE DR	Home Telephone (864)	
Birth Date 1		City, State, & Zip SPARTANBURG SC 293011208		Owner's Full Name BW FIBERGLASS INC		
State SC	Driver's License # D	Insurance Company: PENN NATIONAL		Contributed To Collision Yes (No)		
Year 2013		Body 4S	Vehicle Make CHEV	VIN # 2G1WF5E31D1144751	Accident Insurance Information for Unit # 02	
Year 2016		License Plate # ZXL6399	Owner's D.L. # NONE		Company Name PERMANENT GENERAL ASSURANCE	
Home Telephone (864)		Owner's Full Name BW FIBERGLASS INC		Area Code/Phone Number ()		
Bus. Telephone (864)		Street 100 GLASS WAY		Agency Name PERMANENT GENERAL ASSURANCE		
Contributed To Collision Yes (No)		City, State, & Zip SHELBY NC 28152		Policy Number 30SC2625706		
City, State, & Zip MAYO SC 29368						
All Units Insurance Information (to be completed by Investigating Officer)						
Accident Insurance Information for Unit # 01			Accident Insurance Information for Unit #			
Company Name PENN NATIONAL		Area Code/Phone Number ()		Company Name ()		
Agency Name		Policy Number AX90890693		Agency Name ()		
Policy Number AX90890693		Policy Number ()				
Automobile Liability Insurance Information						
Notice of Requirement Accepted				Signature		
				Y N Refused to Affix Signature?		
				Y N Vehicle Subject to Registration In SC?		
To Be Completed Below or Entered at WWW.SC-ALR.COM By Insurance Company representative. This form should not be mailed to DMV if insurance information has been submitted electronically			The information as contained herein is based solely upon my knowledge and belief as a representative of the above insurance company and no warranty of liability is imputed into the above mentioned insurance as I have listed herein			
Reference to Unit #: _____ I hereby affirm that to the best of my knowledge the vehicle described above was insured by the below stated insurance company on the date of the collision.			Signature			
Insurance Company		Policy #:		Title		
Beginning Date:		Ending Date:		NAIC# (Assigned by S.C. Dept. of Ins.)		
Policy Holder:		Bus. Telephone ()				
Notice: If liability insurance was not in effect for your vehicle involved in the collision, the Department of Motor Vehicles could suspend your driver license and registration privileges pursuant to South Carolina Code of Laws 56-9-351 and 56-10-530.						
If any of the below are applicable, Disregard the above portion.			Form FR-10 Not Issued: Section 56-10-520			
Check here if a Form SR-23, Fleet policy of 25 or more vehicles is on file with the Department of Motor Vehicles covering the vehicle			No FR-10 Issued to Operator/ Owner of Unit #:			
Check here if a certificate of self-insurance has been issued by the Department of Motor Vehicles covering the vehicle and indicate the certificate number: SI - _____			Summons Issued to:			
Check here if liability insurance was not in effect to comply with South Carolina statutory requirements			Signature		Summons Number:	
Investigating Officer's Name: GANNON - J D			Date		Signature	
Rank TRP	Badge # T389	Code HP03	Date	Reviewer's Name	Internal Agency Code 15GV255823	

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF Spartanburg County)

Sasha DeLond Thomas 329945
Last name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2017-CP-42-2247

APPLICATION FOR

POST-CONVICTION RELIEF

CLERK OF COURT
SPARTANBURG COUNTY
2017 JUN 27 AM 10:21
M. HOPE BLANCHETT

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 Camille Griffin Graham Correctional Institution
2. Name and location of Court which imposed sentence General Session Spartanburg County
3. Name(s) of co-defendant(s) (if any) N/A
4. ~~The indictment number or numbers~~ (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2016-GS-4201425 Felony DUI w/Great Bodily Inj
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 12/13/2016 15yrs suspended to 7.5 years 5 years probatic
 - (b) _____

- (c) _____
- 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. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. Denied
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. March 21, 2017
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. N/A
 - ii. _____
 - iii. _____

2017 JUN 27 AM 10:24
 H. HOPE BLACKLEY
 STATE OF SOUTH CAROLINA
 DEPARTMENT OF CORRECTIONS

- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) N/A
 - (b) _____
 - (c) _____
- 10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
- (b) Involuntary Plea
- (c) _____

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

- (a) See attached sheet
- (b) See attached sheet
- (c) _____

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

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

2017 JUN 27 AM 10:24
 MARIOPE BACHILEY
 CLERK OF COURT

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

- (a) the specific nature thereof:
 - i. Appeals Court
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. Appellate Court Columbia SC
 - 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) N/A

(b) _____

(c) _____

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

2017 JUN 27 AM 10:24
M. HOPE BLACKLEY

SECRET

- (a) your arraignment and plea? Yes
- (b) your trial, if any? _____
- (c) your sentencing? Yes
- (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. Andrea Price Public Defender Spartanburg County
- ii. _____
- iii. Unknown?

(b) the proceedings at which each such attorney represented you:

- i. Plea
- ii. Appeals Court
- iii. _____

2017 JUN 27 AM 10:24
 SPARTANBURG COUNTY
 M. HOPE BLACKLEY

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

Resentence, New trial or Vacate Sentence

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

NO

STATE OF SOUTH CAROLINA

County of Sparksburg

VERIFICATION

I, ~~Sasha Thomas~~ 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.

Sasha Deyond Thomas
Sasha Deyond Thomas 329945

SWORN to and subscribed before me this 23rd
day of June, 2017.

Crystal [Signature] (L.S.)
Notary Public

My Commission Expires: July 22nd, 2026

CLERK OF COURT
SPARKSBURG, SC 29581
2017 JUN 27 AM 10:25
M. HOPE BLACKEY

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

I, Serna, 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.

John Deard Thomas
 Serna D Thomas Applicant 829945

SWORN or affirmed to and subscribed before me this

23rd day of June, 2017.

Cynthia Davis
 Notary Public

My Commission Expires: July 22nd, 2016

2017 JUN 27 AM 10:25
 M. HOPE BLACKLEY

Sasha Thomas 329945 V.S. State of South Carolina

11). Ineffective Assistance of Counsel

A-1

1. Failure to prepare trial strategy or tactics
2. Failure to protect motion of discovery to include Video of ~~the~~ Wreck, No toxicology report
3. Failure to call witnesses for testimony
4. Statute 56-05-2945(B)(1) States Great bodily injury means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of any bodily member or organ. My V Neck only had broken collar bone.
5. Failure to call expert witness to formulate opinion concerning his injuries, which established prejudice to me and my Sixth Amendment rights
6. Failure to include lesser included offense of reckless driving
7. All of this prejudice the outcome of the case and violated 14th and 6th Amendment rights.

CLERK OF COURT
SPARTANBURG COUNTY
2017 JUN 27 AM 10:25
M. HOPKINS
BLACKLEY

Continue... Pg 2

49

Sasha Thomas 329945 v.s. State of South Carolina

11) Involuntary Plea

B-1

1. Involuntary plea was unlawfully induced and not made voluntarily or with a complete understanding of the nature of the charges and the inadequacies of the plea potential

CLEER
SPARTANBURG COUNTY
2017 JUN 27 AM 10:25
M. HOPE BLACKLEY

50 6-23-2017

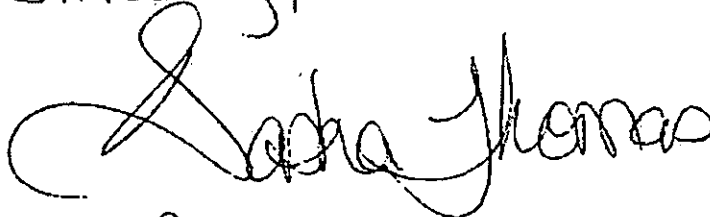
M Hope Blackley
Clerk of Court, Spartanburg County
Post office Box 3483
Spartanburg, South Carolina 29304-3483

Dear ms. Blackley

Please find enclosed my post
conviction relief application.
Please send me a checked copy
for my records.

Thank you for your assistance.

Sincerely,



Sierra Thomas 329945
WHA-45 CGGCI
4450 Broad River Rd
Columbia, SC 29210

CLERK OF COURT
SPARTANBURG COUNTY
2017 JUN 27 AM 10:26
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG)	IN THE SEVENTH JUDICIAL CIRCUIT
)	
Sasha D. Thomas, #329945,)	Case No.: 2017-CP-42-2247
Applicant,)	
)	
v.)	RETURN 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 June 27, 2017, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In March 2016, the Spartanburg County Grand Jury indicted Applicant for felony driving while intoxicated ("DUI") where great bodily injury results and driving under suspension, license not suspended for DUI, first offense (2016-GS-42-1425). Andrea Leah Price, Esquire, represented Applicant. Solicitor Barry Joe Barnette represented the State. On December 15, 2016, Applicant pleaded guilty as indicted before the Honorable J. Derham Cole. Judge Cole sentenced Applicant to imprisonment for concurrent terms of fifteen years and a fine of \$10,000 for felony DUI suspended upon the service of ninety months and the payment of \$5,100 and probation for five years and thirty days for driving under suspension.

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed Applicant's appeal on March 6, 2017 for failure to provide a sufficient explanation. State v. Thomas, App. Case No. 2016-002571 (S.C. Ct. App. filed March 6, 2017). The remittitur was returned to the circuit court on March 27, 2017.

Attached to this Return and incorporated by reference are the records of the Spartanburg 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.

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

1. "Ineffective Assistance of Counsel"
 - a. "Failure to prepare trial strategy or tactics"
 - b. "Failure to prove motion of discovery to include video of wreck, no toxicology report"
 - c. "Failure to call witnesses for testimony"
 - d. "Statute 56-05-2945(B)(1) states great bodily injury means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. [Applicant's] victim only had a broken collar bone."
 - e. "Failure to call expert witness to formulate opinion concerning [victim's] injuries, which established prejudice to [Applicant] and [Applicant's] sixth amendment rights."
 - f. "Failure to include lesser included offense of reckless driving"
 - g. "All of this prejudice the outcome of the case and violated 14th and 6th amendment rights."
2. "Involuntary Guilty Plea"
 - a. "Involuntary plea was unlawfully included and not made voluntarily or with a complete understanding of the nature of the charges and the inadequacies of the plea potential."

III.

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 her 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.

Applicant also asserts her plea was involuntary. In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant 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). An applicant alleging her guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56 (1985). Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." Id. at 771.

The record must establish the defendant had a full understanding of the consequences of her plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial

admission of the truth of the charges” against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, at 137–38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions “made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). “In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing.” Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant’s plea. However, allegations regarding the voluntariness of the plea may raise a question of fact that is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a), SCRPC. All claims should be made well in advance of the evidentiary hearing. If Applicant has is represented by an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. 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), SCRCP.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits, witnesses, and materials used to produce potential expert witness testimony be provided to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VI.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel and involuntary guilty plea. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

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

[Remainder of page left blank intentionally]

VIII.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of plea counsel and involuntary guilty plea.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

VALERIE GARCIA GIOVANOLI
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

December 12, 2017

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
)
)
)
 SASHA D. THOMAS, #329945,)
)
)
 Applicant,)
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 vs)
)
)
 STATE OF SOUTH CAROLINA,)
)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS

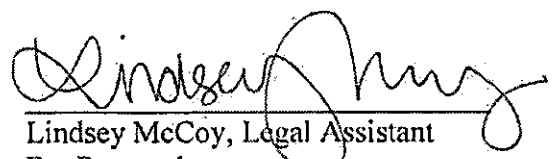
2017-CP-42-2247

AFFIDAVIT OF SERVICE BY MAIL

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

Susannah C. Ross, Esquire
Ross & Enderlin, PA
330 East Coffee Street
Greenville, South Carolina 29601

DATED this the 12th day of December, 2017.


 Lindsey McCoy, Legal Assistant
 For Respondent

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

COURT OF COMMON PLEAS NONJURY

SASHA D. THOMAS,
APPLICANT,
VS.
STATE OF SOUTH CAROLINA,
RESPONDENT.

TRANSCRIPT
OF
RECORD
2017-CP-42-2247

February 2nd, 2018
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE GRACE GILCHRIST KNIE, Judge.

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

SUSANNAH C. ROSS
ESQ.
Attorney for the Applicant

VALERIE GIOVANOLI
ASSISTANT ATTORNEY GENERAL
Attorney for the State

PAMELA E. GREEN
Circuit Court Reporter
Seventh Judicial Circuit

	<u>I N D E X O F W I T N E S S E S</u>	
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6	Cross-examination by Ms. Giovanoli	8
7	Redirect examination by Ms. Ross	10
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9	Direct examination by Ms. Giovanoli	12
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EXHIBITS

<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>Applicant's Exhibits</u>		
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P R O C E E D I N G S

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MS. GIOVANOLI: May it please the Court?

THE COURT: Yes, ma'am.

MS. GIOVANOLI: This is Sasha D. Thomas versus The State of South Carolina. Docket Number 2017-CP-42-2247. We're before the Court on an Application for Post-Conviction Relief that was filed on June 27th, 2017.

In March, 2016, Applicant was indicted for Felony DUI where great bodily injury results, and as well as driving under suspension. Andrea Price represented the Applicant, and, on December 15th, 2016, Applicant pleaded guilty as indicted before the Honorable J. Derham Cole.

Judge Cole sentenced Applicant to imprisonment for concurrent terms of 15 years and a fine of \$10,000, for Felony DUI resulting in Great Bodily Injury, suspended upon the service of 90 months, which is seven and a half years, and a payment of \$5,100. She -- and also probation for five years, and 30 days for driving under suspension.

The Applicant filed a timely Notice of Appeal. The South Carolina Court of Appeals dismissed that appeal on March 6th. She, thereafter, filed this Application for Post-Conviction Relief alleging various allegations of ineffective assistance of counsel as well as involuntary guilty plea.

1 The State had previously, in their return, moved for a
2 more definite statement, but I, I believe that the
3 allegations are sufficiently specific for us to proceed
4 today. So, the State is present and ready to proceed.
5 Applicant is also present. She's represented by Ms.
6 Susannah Ross to whom I will hand it over.

7 THE COURT: Yes, ma'am, Ms. Ross.

8 MS. ROSS: Thank you, Your Honor.

9 Ms. Thomas is alleging ineffective assistance of
10 counsel that brings into question the outcome of the case.
11 She received a -- well, the sentence, 15 suspended to seven
12 and a half years on this.

13 The issue that Ms. Thomas puts forward primarily is one
14 of whether a broken collarbone rises to the level of great
15 bodily injury, and that's defined as substantial risk of
16 death or which causes serious permanent disfigurement or
17 protracted loss or impairment of the function of a body
18 member or organ. That issue -- the case was not appealed.
19 So, that issue was not preserved for review or whether -- I
20 believe she attempted to put in an appeal, but the letter
21 with that didn't preserve that issue to bring it to the
22 attention of the Court to have it reviewed on appeal.

23 Excuse me.

24 So, we would call Ms. Thomas to the stand at this time.

25 THE COURT: Okay. Good morning, ma'am.

Sasha Thomas - Direct examination
by Ms. ROSS

1 THE WITNESS: Good morning.

2 THE COURT: You are Sasha Thomas.

3 Is that correct?

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Ma'am, do you -- will you raise your
6 right-hand for me?

7 SASHA THOMAS, being first duly
8 sworn, testified as follows:

9 THE COURT: Thank you, ma'am. Have a seat and make
10 yourself comfortable.

11 All right?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: Yes, ma'am.

14 DIRECT EXAMINATION

15 BY MS. ROSS:

16 Q Okay. Hi, Ms. Thomas.

17 Do you realize that, if you win PCR, you're back in the
18 position you were in before the plea?

19 A Yes, ma'am.

20 Q Looking at a maximum of 15 years?

21 A Yes, ma'am.

22 Q And how do you wish to proceed?

23 A I wish to proceed.

24 Q All right. And, as far as great bodily injury, that's
25 an issue you've brought up?

Sasha Thomas - Direct examination
by Ms. ROSS

1 A Yes, ma'am.

2 Q And, and your question is whether the victim's broken
3 collarbone amounted to -- rose to the level of great bodily
4 injury?

5 A Yes, ma'am.

6 Q Now, are there any other issues that you -- that you'd
7 like to put forward?

8 A The fact that I was on house -- well, I was on the
9 SCRAM monitor for a year, and it really -- it was -- yeah,
10 that, that I was on SCRAM monitor for a year. I have a ten
11 year old daughter that I was sole custody of when this all
12 took place. I have made some major changes in my life
13 during this situation since 2015.

14 Q All right. Were you told anything, prior to the plea,
15 that -- about what credit you would get for being on SCRAM
16 for 332---

17 A Yeah.

18 Q ---days?

19 A I was, I was told that, the SCRAM bracelet, that I
20 would get the time -- the year. It was -- should of
21 counted.

22 Q All right. And you had sole custody of your daughter?

23 A Yes, ma'am.

24 Q Who's she staying with now?

25 A She stay with her daddy's daddy.

Sasha Thomas - Cross-examination
by Ms. Giovanoli

1 Q Okay. All right. I've got no further questions.

2 THE COURT: Okay. Cross-examination.

3 MS. GIOVANOLI: Yeah, very briefly.

4 THE COURT: Yes, ma'am.

5 CROSS-EXAMINATION

6 BY MS. GIOVANOLI:

7 Q Is it -- isn't it true that you have a previous DUI
8 conviction from 2010?

9 A Yes, ma'am.

10 Q And, in this case, you, after the collision, you told
11 law enforcement that it was, I'm gonna use the word victim,
12 the victim's fault?

13 A That's what I was told at the scene.

14 Q That's what you were told you or is that what you told
15 law enforcement?

16 A I was told at the scene that I was not in fault.

17 Q Okay. What did you tell law enforcement at the scene?

18 A I didn't feel like that. I didn't think that I was at
19 fault.

20 Q Okay. And there was a video surveillance of a building
21 near the accident.

22 Is that correct?

23 A Yes, that -- yes.

24 Q And it actually showed that you were at fault in the
25 collision?

Sasha Thomas - Cross-examination
by Ms. Giovanoli

1 A Yes.

2 Q In the guilty plea, you were -- did you tell the truth
3 at the guilty plea?

4 A Concerning?

5 Q Everything. You answered a lot of questions from the
6 Court.

7 Were you telling the Court the truth?

8 A I mean I told them -- yeah. Yeah, I would say I told
9 them the truth, yeah.

10 Q Okay. And so when the solicitor went over the facts of
11 the case and you agreed, was that the truth?

12 A When he went over the facts like that I was looking at
13 a Felony DUI charge, yeah, I told him that is the truth,
14 yeah.

15 Q And was that the truth?

16 A Yeah, I was looking at a Felony DUI charge.

17 Q Well, he actually gave a recitation that starts on Page
18 22, Line 13 for the Court, a recitation of all of the facts
19 surrounding this charge, and you told the Court that you
20 agreed with those facts.

21 Was that a truthful statement to the Court?

22 A Yeah.

23 Q And is it true that your blood alcohol level at the
24 time of this accident was .142 and you also had THC in your
25 system?

Sasha Thomas - Redirect examination
by Ms. Ross

1 A I wouldn't know cause I didn't find out to a blood
2 point until I got to the court.

3 Q Okay. So, you didn't discuss the -- your -- the, the
4 blood alcohol and the THC in your blood with your counsel?
5 Is that your testimony?

6 A Yes, I did not.

7 Q So, you went to court and pled guilty, but you hadn't
8 even discussed blood what your alcohol, blood alcohol level
9 and THC level in your blood was?

10 A True. True.

11 Q Okay. I have no further questions. Thank you very
12 much.

13 THE COURT: Redirect.

14 MS. ROSS: Just part of that about going over the case.

15 REDIRECT EXAMINATION

16 BY MS. ROSS:

17 Q How many times had you met with your lawyer prior to
18 your plea?

19 A Twice.

20 Q And what did you indicate to her?
21 Did you ever get a plea offer?

22 A Oh, no, ma'am.

23 Q All right. And did you have a copy of your discovery?

24 A No, ma'am.

25 Q Okay. And then -- okay. I've got no further

Sasha Thomas - Redirect examination
by MS. ROSS

1 questions.

2 THE COURT: Okay. Ms. Thomas, ma'am?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: You may step down.

5 THE WITNESS: All right.

6 THE COURT: Watch your step.

7 Next witness.

8 MS. ROSS: That's the Applicant's case.

9 THE COURT: Okay.

10 MS. ROSS: Actually, can I just -- I have a photocopy
11 of part of the statute that it'd like -- I'd like to present
12 to the Court.

13 THE COURT: Certainly.

14 MS. ROSS: This is actually not the statute that -- I
15 found no case law on, on addressing whether a broken bone
16 was per se great bodily injury. For comparison, I just
17 pulled the assault and battery statute, 16-3-600, which
18 defines great bodily injury identically, the same way, as
19 it's defined in the Felony DUI statute as the injury causing
20 substantial risk of death, and it also defines moderate,
21 moderate bodily injury, and we would just argue that, that
22 Applicant's injury falls into that.

23 So, I would, I guess, I'd offer this as Court's
24 Exhibits before I close my case.

25 THE COURT: Yes, ma'am. Thank you.

Andrea Price - Direct examination
by Ms. Giovanoli

1 office for, for 11 years the 19th of this month, and that's
2 been the entire of my, my legal practice.

3 Q Okay. And you're still with the public defender.

4 Is that right?

5 A I am.

6 Q Were you a public defender at the time of this case?

7 A I was.

8 Q And you were appointed to represent Ms. Thomas?

9 A That's correct.

10 Q Okay. Did you make a motion for discovery?

11 A I did.

12 Q And did you receive that discovery---

13 A I did.

14 Q ---from the state?

15 A I did and I can tell you exactly. I actually received
16 discovery twice. I got some in May of 20 -- of 2016 from
17 the home detention office, and I put in my request for
18 discovery in August of 2016, and I think that might be it.
19 That's strange. I actually got -- oh, that's on another
20 charge. Excuse me. I actually got the -- everything on
21 this case in February of 2016.

22 Q Okay. And, when you got that discovery, did you take
23 it and review it with Ms. Thomas?

24 A Ms. Thomas came in, into the office. She made an
25 appointment and came in on May the 3rd of 2016. We went

Andrea Price - Direct examination
by Ms. Giovanoli

1 over her discovery at that point. She, at the time, had
2 secured a very good job at Spartanburg Steel according to my
3 notes. I encouraged her to keep that job, and also told her
4 to go to SADAC for an assessment. That's something I do
5 with all of my clients who are not already involved in some
6 sort of treatment if there is substance abuse involved in
7 her case.

8 Q And why do you refer them to SADAC?

9 A I think that it's in their -- number one, if you are
10 in -- under the influence of anything or you're in, in some
11 type of substance abuse -- if you have a problem with that,
12 I think it's a very good way to show the Court, number one,
13 it's gonna help you, your health, and keep you -- help you
14 keep on the straight and narrow, and, number two, I think
15 it's a very good way to show the Court that you're being
16 proactive to take steps to, to better yourself, and to make
17 sure that the allegations that are against you don't happen
18 again.

19 Q Did you believe she had a substance abuse problem?

20 A Since this is her second DUI, absolutely.

21 Q Was there any other evidence in the discovery that led
22 you to believe she had a substance abuse problem?

23 A She had a pretty high blood alcohol content that the
24 Court's already heard about, and also she did give
25 statements to the police, and, but for lack of a better

Andrea Price - Direct examination
by Ms. Giovanoli

1 term, make up a story to exonerate herself from this
2 accident that I felt was very damaging to her.

3 Q And -- okay. So, let's go back. She made a statement
4 to police not only -- well, there was -- was there also a
5 statement that she smoked marijuana and drank every day all
6 day?

7 A That is the discovery that I received from the home
8 detention office. As part of her bond, Ms., Ms. Sasha
9 Thomas, I always called her Ms. Sasha, but she actually had
10 to fill out some paperwork to the home detention office.
11 She was not on the home detention. She was on SCRAM, which
12 is the alcohol monitor, but, but those are managed by the
13 same group of folks over at the county jail.

14 She made a statement to them -- there, there is some
15 information you have to fill out, name, date, where you
16 live, who lives in your home, that sort of thing, but she
17 did make -- fill out on there that, a very incriminating
18 statement, that they said do you use alcohol, and she said
19 yes, all day every day.

20 Q Okay. So, after you referred her to SADAC, that
21 meeting, you discussed all of the discovery with her?

22 A All the discovery that I had, which, which was the
23 February discovery.

24 Q Do you know when your next meeting with her was?

25 A She called on the phone a few times. I made notes of

Andrea Price - Direct examination
by Ms. Giovanoli

1 that. This case then went on the trial docket. It had been
2 almost a year. So, that wasn't too usual.

3 When it hit the trial docket, she made an appointment
4 to come in and talk to me. We talked about her case, and
5 she said that she wanted to proceed with the plea saying
6 that she could not predict what a jury would do, which is
7 absolutely true, and that she actually signed her plea
8 sheets, and that was on the 12th of December, and that
9 plea was actually on the 15th.

10 Q So, the 12th she signed the plea sheets?

11 A Yes. And so she had three days before we went to
12 court.

13 Q Okay. And it was actually her who said that she, she
14 couldn't predict what a jury would do---

15 A According---

16 Q ---or did you say that?

17 A According to my notes, but that, but that is absolutely
18 true, and I agree with her. You can't predict what a jury
19 will do.

20 Q Did she ever express to you a desire to proceed to
21 trial?

22 A No, never.

23 Q And so did you try to work out a deal with the
24 solicitor in this case?

25 A I did and it was Mr. Barnette, and Mr. Barnette was not

Andrea Price - Direct examination
by Ms. Giovanoli

1 amenable.

2 Q Did you explain to her that she would be pleading open
3 to the Court?

4 A I did. I explained to her that her option, at this
5 point, was either proceed to trial or to enter a plea before
6 the Court, and she indicated to me that she wished to
7 proceed with the plea.

8 Q Okay. You didn't make that decision for her?

9 A No, I don't make that decision --

10 Q Okay.

11 A -- for any of my clients.

12 Q But, in so advising, did you advise her to plead
13 guilty?

14 A I told her that she had done very -- she had actually
15 done very well in the time that she'd been out on bond.
16 She'd been able to hold down a job. She did have a young
17 daughter. She had been -- done beautifully on her SCRAM
18 monitor. She was on SCRAM for 333 days and with no
19 violations.

20 Q Did you bring that to the Court's attention?

21 A I did.

22 Q Was that for purposes of mitigation?

23 A It was.

24 Q Did you explain to her the minimum and maximum
25 sentences she could face?

Andrea Price - Direct examination
by Ms. Giovanoli

1 A Yes.

2 Q Let's see. In your review of the discovery, did she
3 tell law enforcement officers that, that the victim was at
4 fault in the accident?

5 A Yes, sir, and sorry. Yes, ma'am, the gentleman -- I
6 actually believe he received a ticket as a result of this
7 originally, and then, when it was discovered that it was
8 caught on camera at a local doctor's office, it was then
9 submitted and that, that was changed, I believe, and that
10 was when she was charged.

11 Q Okay. And who -- how was it discovered, the video
12 evidence?

13 How was that discovered?

14 A I understand that the gentleman actually contacted the
15 doctor's office and asked if they had any surveillance.

16 Q When you say gentleman, do you mean the victim?

17 A Yes. Yes, I'm sorry. I can't remember his name, but
18 the gentleman. He actually contacted the doctor's office
19 because he was turning into their parking lot when this,
20 this incident occurred, and they were able to provide him a
21 video of it.

22 Q Could you kind of explain the accident scene?

23 I know it's easier to do visually, but what -- he was
24 making a turn.

25 Is that a left or a right turn?

Andrea Price -- Direct examination
by Ms. Giovanoli

1 A Left turn.

2 Q Is this a one or two lane or two or four lane highway?

3 A It's a two lane road. It's Floyd Road, which is here
4 in Spartanburg over near Mary Black Hospital.

5 Q Okay. And where was the -- Ms. Thomas at the time---

6 A Ms.---

7 Q ---of that accident?

8 A Ms. Thomas -- well, he was making a left-hand turn into
9 the doctor's parking lot, and Ms. Thomas was behind him and
10 actually came around him, and hit him in the, the driver's
11 side door.

12 Q She came around to his left?

13 A To the, to the left-hand lane, yes.

14 Q And t-boned him?

15 A In layman's terms, yes.

16 Q Okay.

17 A That's what it looked like.

18 Q Okay. So, your -- did you research the statute of, I
19 believe it's 56-05-2945, that was the basis for this charge?

20 A I did. I don't have a copy of it with me, but --.

21 Q Okay. Can you -- well, basically we know that it's
22 great bodily injury?

23 A Great bodily injury.

24 Q Okay. And, in this case, did you feel that the
25 victim's injuries were not consistent with great bodily

Andrea Price - Direct examination
by Ms. Giovanoli

1 injury?

2 A Based on the discovery that I had -- that was provided
3 to me initially, I did. It -- he did have surgery. He had
4 to have plates and screws put in his collarbone, but I
5 expressed my concern about that to Mr. Barnette who then
6 advised me that he -- the gentleman was -- did want to come
7 to the plea, and, and talk about the further extent of his
8 injuries.

9 I don't particularly care for this statute, as a
10 lawyer, because there's really not a good definition of
11 great bodily injury or impairment in it. So, when I
12 expressed my concerns to Mr. Barnette, he did tell me that
13 the gentleman was gonna be coming to the plea, and talking
14 some more about that.

15 Q Did you ever request an offer for a plea to a lesser
16 offense that didn't involve great bodily injury?

17 A Yes, that is something I normally do---

18 Q And---

19 A ---and, and he was not amenable to that at all.

20 Q Okay. Did he express to you that he was ready to prove
21 the great bodily injury at trial?

22 A Yes.

23 Q Okay. And, it's, it's in the record, but was it true
24 that the victim's clavicle was shattered in four different
25 places?

Andrea Price - Direct examination
by Ms. Giovanoli

1 A It was. I was provided his orthopedic records as---

2 Q Okay.

3 A ---as part of the discovery.

4 Q And did he -- and you testified that he had surgery.

5 He had a steel plate put in his clavicle area.

6 A That, that's my understanding, yes.

7 Q And, at the guilty plea hearing, did the victim speak
8 with regard to his injuries?

9 A He did. He did, in great detail.

10 Q Okay. And can you kind of tell us, based on your
11 recollection in the record, how he described his injuries?

12 A He said that he did have to have surgery, was in the
13 hospital overnight, was basically completely out of
14 commission for the next two weeks, and his, as I recall, he
15 said basically he could not do anything.

16 Q And did he ever discuss the long term effects, the plan
17 of treatment with his doctor?

18 Did he mention that on the record?

19 A I don't remember right off.

20 If you can direct me to a page?

21 Q Yeah, I'll, I'll do that. I'm gonna look for it here.

22 Page 16.

23 A Okay.

24 Q This is where the victim is speaking, and I mean it
25 starts, you know, immediately about Page 14. I mean -- I'm

Andrea Price - Direct examination
by Ms. Giovanoli

- 1 sorry. Line 14.
- 2 A , Page 16, Line 14?
- 3 Q That's correct.
- 4 A Okay.
- 5 Q It starts, it starts there and it continues on---
- 6 A Right.
- 7 Q ---to Page 17.
- 8 A Okay.
- 9 Q He discusses how he is -- it affected his job and his
10 ability to work.
- 11 A Right.
- 12 Q And --.
- 13 A Right. I expected him to also say these same things if
14 we had gone to trial. He said, he said, for two weeks, he
15 didn't, he didn't do anything, and that, that meant work.
16 And that he was in the hospital overnight and he really
17 couldn't do anything.
- 18 Q And he also said, on Page 18, Line 7, he didn't do much
19 of anything for the first six months of the year because of
20 the injury.
- 21 A Yes.
- 22 Q And on -- okay. Here it is. Page 18, Line 17.
23 If you could just read that where it starts I'm going
24 to.
- 25 A All right. When something like this happens, as the

Andrea Price - Cross-examination
by MS. ROSS

1 ortho told me who did my surgery, I'm gonna have life long
2 effects from this that will not go away. This shoulder here
3 is still, it's hard to quantify, but it's still numb. I
4 wouldn't say a hundred percent, but it's still numb.
5 There's not a day that goes by, when I move, my shoulder
6 doesn't -- remind me. It's very stiff. I still do physical
7 therapy at home. It just doesn't go away.

8 Q So, according to him, his orthopedic surgeon, told him
9 that he would have life long effects from this injury?

10 A It certainly sounds like it, and it certainly sounds
11 like he was prepared to say what, what those problems were.

12 Q Did you ever promise her any type of sentence?

13 A No.

14 Q Okay. I have no further questions. Thank you very
15 much. If you'll answer any questions that Ms. Ross may
16 have.

17 THE COURT: Cross-examination.

18 MS. ROSS: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. ROSS:

21 Q Now, the State put in a number of exhibits, exhibits in
22 this case and during this guilty plea, didn't they?

23 A That is very typical of Mr. Barnette, yes.

24 Q All right. And they include the medical records,
25 Exhibit 9, and, Exhibit 9, x-rays. That's all on Page 3 of

Andrea Price - Cross-examination
by Ms. Ross

- 1 the transcript.
- 2 A Thank you. That's what I was looking for.
- 3 Q And photographs as well?
- 4 A Yes.
- 5 Q And, and the photograph, would you agree, it just shows
6 substantial bruising of the shoulder?
- 7 A I, I don't remember. I'm sorry.
- 8 Q All right. Did you get and review any of the medical
9 records as, as part of the discovery?
- 10 A Yes, they were -- those were included.
- 11 Q All right. Did you happen to see his, I guess, the,
12 the radio -- radiology report by any chance?
- 13 A I'm sure that was included in the discovery.
- 14 Q All right. And I'm showing you a copy of the radiology
15 report --
- 16 A Okay.
- 17 Q -- which was in the Clerk's Office. Exhibit---
- 18 A Okay.
- 19 Q ---8 I believe.
- 20 A Okay.
- 21 Q And what does that say about his fracture?
- 22 A Mid to distal -- left clavicle. Significant overlap.
23 No abnormal lining. No acute fracture is seen otherwise.
24 No glenohumeral joint dislocation is seen.
- 25 Q All right. So, does that show four fractures of the

Andrea Price - Cross-examination
by Ms. Ross

1 clavicle in that---

2 A I don't know what it says. I'm not a doctor.

3 Q All right. I'd have this marked as Applicant's Exhibit
4 1.

5 THE COURT: Any objection?

6 MS. GIOVANOLI: I'm just gonna object because I don't
7 think the proper foundation has been laid to admit it into
8 evidence.

9 THE COURT: Well, it's already part of the record, and,
10 and, traditionally, if necessary, I, you know, I have those
11 files forwarded to me. So---

12 MS. GIOVANOLI: Okay. That's fine, but I would just
13 ask that this witness say whether she recognizes that
14 document, if she ever received it in discovery, if it's part
15 of this case.

16 THE COURT: Yes, ma'am, try to lay a foundation for it.

17 Q All right. Do you recognize that document?

18 A Not right off.

19 Q Did you receive the medical records of Mr. Miller I
20 believe?

21 A Yes, Mr. Miller, yes, according to the, that list that
22 I got from the solicitor's office.

23 Q And you want to review those medical records to see if
24 that's included in there?

25 A No.

Andrea Price - Cross-examination
by Ms. Ross

1 THE COURT: And, and, for the record, wasn't -- didn't
2 you get that from the Clerk's Office---

3 MS. ROSS: I did.

4 THE COURT: ---counsel?

5 And so it was already an exhibit---

6 THE WITNESS: That's correct.

7 THE COURT: ---with the plea?

8 MS. ROSS: Right.

9 THE WITNESS: That's correct.

10 THE COURT: Okay. All right. So---

11 MS. GIOVANOLI: Withdraw my objection.

12 THE COURT: Okay. Thank you.

13 Q Well, I guess, given that, if you didn't receive a
14 record of that, wouldn't that be a violation of the
15 discovery rules if that wasn't provided to you?

16 A I'm assuming, yes. I got it from -- I got discovery
17 from Orthopedic Specialists, Spartanburg Regional, and a
18 picture of his shoulder x-ray.

19 Q Okay. And what's the title of this one?

20 A Radiology report, Spartanburg Regional Medical Center.

21 Q Okay.

22 THE COURT: So, that will be Applicant's 1.

23 Is that correct?

24 MS. ROSS: Yes, Your Honor.

25 THE COURT: Okay. Thank you.

Andrea Price - Cross-examination
by Ms. Ross

1 MS. ROSS: And I'd move that into evidence at this
2 time.

3 (WHEREUPON, the radiology report was marked as
4 Applicant's Exhibit No. 1 and received into evidence at this
5 time.)

6 Q Now -- so, based on that, they're not -- that radio,
7 radiology report does not show four fractures of the
8 clavicle?

9 A I don't know what it says.

10 Q Okay. Now, is it your understanding that Ms. Thomas, I
11 mean, was not charged with DUI initially on the -- at the
12 time of this accident?

13 A That's, that's my recollection.

14 Q And so no one at the scene, while she's talking to him,
15 noticed any impairment such that they charged her with DUI?

16 A I -- again, I -- the discovery I got didn't include
17 anything like that. So, I just got it after she was
18 charged.

19 Q So, she was charged well after the fact of this wreck?

20 A She was charged -- I can give you the exact date. This
21 happened on December the 30th. Let's see. She was booked
22 into the jail on January the 14th of 2016.

23 Q All right.

24 A And this happened on December the 30th.

25 Q All right. So, approximately two weeks later?

Andrea Price - Cross-examination
by Ms. Ross

- 1 A About two weeks, yes.
- 2 Q Okay. Now, did you discuss with her that that could be
3 an argument in her defense for DUI?
- 4 A Yes.
- 5 Q Were there any other witnesses to the accident that you
6 recall?
- 7 A Not that I'm aware of.
- 8 Q All right. And just going to the appeal, did you
9 appeal the case?
- 10 A I did, at her request.
- 11 Q And in the, the letter explaining the appeal, the, the
12 2-0 -- I can't remember the rule number. It escapes me
13 right now. But in the accompanying letter explaining the
14 basis of the appeal, did you mention the issue of great
15 bodily injury?
- 16 A No.
- 17 Q But that was -- and, and it was dismissed?
- 18 A Yes.
- 19 Q The appeal?
- 20 A Yes, it was.
- 21 Q And did you ever do a motion to reconsider?
- 22 A No.
- 23 Q And just going back to the SADAC, I noticed in the plea
24 they spoke quite a bit about her comment that she drank all
25 day everyday that she made to them?

Andrea Price - Cross-examination
by Ms. ROSS

- 1 A Uh-huh. (Affirmative).
- 2 Q Now, are they part of law enforcement or associated
3 with the State?
- 4 A They whom?
- 5 Q SADAC, the whole home incarceration program?
- 6 A SADAC is not home incarceration.
- 7 Q Okay. Is, is it not run through the home incarceration
8 program?
- 9 A You're talking about SCRAM?
- 10 Q Oh.
- 11 A Okay.
- 12 Q I'm sorry.
- 13 A Okay.
- 14 Q I apologize. I just -- I got my---
- 15 A SCRAM.
- 16 Q Sorry about that.
- 17 A Yes.
- 18 Q SCRAM, is that not run through the---
- 19 A Yes, it's -- it is. It's the same group of folks.
- 20 Q Now, was it SADAC or SCRAM that the comment was made
21 to?
- 22 A SCRAM.
- 23 Q SCRAM. Okay. I apologize for that.
- 24 Now, they are associated with the State.
- 25 Is that correct?

Andrea Price - Cross-examination
by Ms. Ross

1 A Yes, it's run by the Sheriff's Office.

2 Q Was she read her rights to remain silent before that
3 comment was used against her?

4 A I'm not sure if she was re-Mirandized again, but my
5 understanding is that she was still at the jail.

6 Q All right.

7 A Home detention bond -- let's see. You complete all the
8 information request in this form. So, she was still in the
9 jail and she -- so, that was part of her bond. So, she was
10 still in custody.

11 Q Okay. Did you ever object to them commenting on her
12 statements based on -- with the basis that they were made to
13 a---

14 MS. GIOVANOLI: Your Honor, I'm gonna object.

15 Q ---state agency?

16 MS. GIOVANOLI: Outside the scope of the allegations.
17 I presented evidence about what the evidence against her was
18 with regard to the claim of involuntary, involuntary guilty
19 plea, but the specific allegations in this case were that
20 she did not pursue a defense regarding the great bodily
21 injury. Not that she did not pursue a defense what -- based
22 on statements being involuntary or not under Miranda.

23 THE COURT: Well, I---

24 MS. GIOVANOLI: I -- just it's outside the scope.

25 THE COURT: I, I think---

Andrea Price - Cross-examination
by Ms. Ross

1 MS. ROSS: That came out---

2 THE COURT: ---that these statements came in during the
3 guilty plea. I'm just glancing at the transcript that
4 Mr. Barnette may have said or Mr. -- the counsel for the
5 civil action, Mr. Foster, was also present at the plea and
6 made statements to the Court, and I'm not sure -- I think
7 maybe it was Mr. Barnette that read those statements in, and
8 I, I just assumed that's what you were asking Ms. Price
9 about.

10 MS. GIOVANOLI: And I guess that the evidence was
11 admitted because the State has to put forth all of the
12 evidence that they have against them. The evidence was not
13 challenged, and, therefore, that's not an issue that was
14 either raised at trial or in a direct appeal, and it wasn't
15 raised in the PCR allegations, and that's where---

16 THE COURT: Yes, ma'am.

17 MS. GIOVANOLI: ---where my objection---

18 THE COURT: You can ask her that on recross or---

19 MS. ROSS: Recross or -- sorry.

20 THE COURT: This is cross-examination.

21 MS. ROSS: I apologize, Judge.

22 THE COURT: You can bring that back up on your
23 redirect.

24 Yes, ma'am, go ahead.

25 Q Okay. And that came up in cross.

Andrea Price - Cross-examination
by Ms. Ross

1 So, that statement came about in statements that she
2 was making to representatives of law enforcement of the
3 state?

4 A Yes.

5 Q And you, and you didn't object to that coming in or
6 being considered?

7 A No.

8 Q Okay. Now, as far as the lawyer just coming to that,
9 there was a lawyer there for Mr. Miller?

10 A Yes.

11 Q Correct?

12 And he spoke on Mr. Miller's behalf?

13 A Yes.

14 Q So, is it entirely possible that he and Mr. Miller
15 discussed the case and discussed what would need to be read
16 into the record to create great bodily injury?

17 MS. GIOVANOLI: Objection as to speculation.

18 MS. ROSS: I withdraw the question.

19 (Pause.)

20 Q I've got no further questions.

21 THE COURT: Okay. Yes, ma'am, redirect.

22 REDIRECT EXAMINATION

23 BY MS. GIOVANOLI:

24 Q I just want to clarify the discovery issue.

25 A Uh-huh. (Affirmative).

Andrea Price - Redirect examination
by Ms. Giovanoli

1 Q You don't have the discovery here today, do you?

2 A I don't. It was given to me on a CD, and, when I
3 received my file back from the folks that we use for -- to
4 keep our records, and, and our file management system, it's
5 not in there. The coversheet that they gave me from the
6 Solicitor's Office saying what they provided me was in
7 there, but it was not.

8 Q So, you don't have it today, but did you have it prior
9 to---

10 A Yes.

11 Q ---the guilty plea?

12 A Absolutely.

13 Q And you reviewed all of it with Mr. -- Ms. Thomas?

14 A I did.

15 Q Okay. And so your testimony is not that you weren't
16 provided that document. It's just that you don't recall
17 because you don't have your discovery today.

18 A That is, that is correct.

19 Q And you have experience with reviewing radiologist --
20 radiology reports?

21 A No.

22 Q okay. Okay. I have no further questions. Thank you.

23 RE CROSS EXAMINATION

24 BY MS. ROSS:

25 Q Did you ask a doctor or have anyone else review the

1 reports for you or assist in your understanding of the
2 reports?

3 A No.

4 Q And, just briefly, did -- was this scheduled for trial
5 in front of Judge Cole or how did, did -- was the plea
6 scheduled in front of him or did it move from another judge
7 to---

8 A Honestly don't remember.

9 Q All right. I've got no further questions.

10 THE COURT: Okay.

11 MS. GIOVANOLI: No further questions.

12 THE COURT: All right. Thank you, ma'am. You may step
13 down.

14 MS. GIOVANOLI: And may she be excused?

15 THE COURT: Yes, ma'am.

16 Okay. Anything else, counsel?

17 MS. GIOVANOLI: Oh, nothing, nothing -- oh, I'm sorry.
18 The State rests.

19 THE COURT: okay. All right.

20 All right. Mr. -- Ms. Thomas, ma'am, I just need for
21 you to understand, and counsel to understand, that I am
22 taking this matter under advisement, and what that means is
23 I'm going to review everything. I've been taking notes. My
24 law clerk up here has been taking notes, and I want to
25 review the transcript, the sentencing documents, and all of

1 the other documents in regard to your file. And, after
2 that, I will issue written instructions to your lawyer and
3 to the lawyer for the State, and an order will be drafted
4 for my signature. And I do these, ma'am, in the order that
5 I've heard them this week. And this is my, my last day this
6 week of hearing these cases.

7 And I tell you all of that so that you understand it
8 won't be next week that you get a decision. It will be
9 several weeks from now. And so don't be discouraged by
10 that. I just want you to understand how the process works.

11 I wish you the best of luck, ma'am. Thank you for
12 being here.

13 THE APPLICANT: Thank you.

14

15

16 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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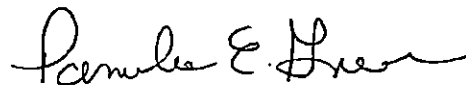
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C E R T I F I C A T E

1
2
3 I, Pamela E. Green, Official Court Reporter for the
4 Seventh Judicial Circuit of the State of South Carolina, do
5 hereby certify that the foregoing is a true, accurate and
6 complete Transcript of Record of the proceedings had and
7 evidence introduced in the trial of the captioned case,
8 relative to appeal, in the Court of Common Pleas Nonjury for
9 Spartanburg County, South Carolina, on the 2nd day of
10 February, 2018.

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

13
14
15
16 March 28th, 2018

17
18
19 

20
21 PAMELA E. GREEN, Court Reporter
22
23
24
25

SPARTANBURG REGIONAL MEDICAL CENTER
Radiology ReportNAME: MILLER, WILLIAM
ORDERING PHYSICIAN: Doran Mark
LOC: EUR-EU19-B
Pt. Type: ERDOB: [REDACTED]
EMERG DEPTUNIT #: 000945377
CI#: 44951670
AN#: S1536402086

FINAL

Exam

10216 ER SHOULDER INCL CLAVICLE*L Date: 12/30/15 1803
73030 Ord Diag: MVC shoulder pain

LEFT SHOULDER RADIOGRAPHS 12/30/2015.

CLINICAL HISTORY: MVA with shoulder pain.

FINDINGS:

A comminuted fracture is seen in the mid to distal diaphysis of the left clavicle. There is significant overlap of the major fracture fragments. No abnormal widening of the acromial clavicular joint is seen. No acute fracture is otherwise seen. No glenohumeral joint dislocation is seen.

IMPRESSION:

1. Comminuted distal left clavicle fracture.

Transcriptionist- N/A
Reading Radiologist- BARRY M LAZENBY MD
Releasing Radiologist- BARRY M LAZENBY MD
Released Date Time- 12/30/15 1904

Page 1



SPARTANBURG REGIONAL MEDICAL CENTER
Radiology Report

NAME: MILLER, WILLIAM
ORDERING PHYSICIAN: Doran Mark
LOC: EUR-EU19-B
Pt. Type: ER

DOB: [REDACTED]
EMERG DEPT

UNIT #: 000945377
CI#: 4495167
AN#: S1536402086

FINAL

Exam

10216 ER SHOULDER INCL CLAVICLE*L Date: 12/30/15 1803
73030 Ord Diag: MVC shoulder pain

LEFT SHOULDER RADIOGRAPHS 12/30/2015.

CLINICAL HISTORY: MVA with shoulder pain.

FINDINGS:

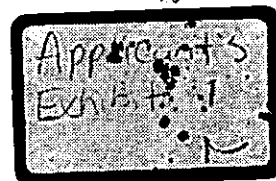
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IMPRESSION:

1. Comminuted distal left clavicle fracture.

Transcriptionist- N/A
Reading Radiologist- BARRY M LAZENBY MD
Releasing Radiologist- BARRY M LAZENBY MD
Released Date Time- 12/30/15 1904

Page 1



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DATE: 01/11/201

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

Sasha D. Thomas, #329945)
Applicant,)

v.)

State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS)
FOR THE SEVENTH JUDICIAL CIRCUIT)

2017-CP-42-2247)

ORDER OF DISMISSAL)

FILED)
CLERK OF COURT)
SPARTANBURG COUNTY)
2018 MAY 21 AM 9:27)
M. HOPE BLACKLEY)

This matter comes before the Court by way of an application for post-conviction relief filed on June 27, 2017, by Sasha D. Thomas (Applicant). Respondent made its Return on or about December 12, 2017, moving for a more definite statement by the Applicant and requesting an evidentiary hearing. An evidentiary hearing into the matter was convened on February 2, 2018, at the Spartanburg County Courthouse in Spartanburg, South Carolina. Respondent withdrew its motion for a more definite statement at the beginning of the hearing.

Applicant was present and represented by Susannah C. Ross, Esquire. Respondent was represented by Valerie Giovanoli, Esquire of the South Carolina Attorney General's Office. At the evidentiary hearing, Applicant testified on her own behalf. Respondent called Andrea Price, Esquire, as its only witness at the hearing. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet her requisite burden of proof and denies the application.

PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of confinement of the Spartanburg County



Clerk of Court. In March 2016, the Spartanburg County Grand Jury indicted Applicant for felony driving while intoxicated ("DUI") where great bodily injury results and driving under suspension, license not suspended for DUI, first offense (2016-GS-42-1425). Andrea Leah Price, Esquire, represented Applicant. Solicitor Barry Joe Barnette represented the State of South Carolina. On December 15, 2016, Applicant pleaded guilty as indicted before the Honorable J. Derham Cole. Judge Cole sentenced Applicant to imprisonment for fifteen years and a fine of \$10,000 for felony DUI, suspended upon the service of ninety (90) months and the payment of \$5,100. For driving under suspension, Applicant was sentenced to probation for five years and thirty days. The terms are to run concurrently.

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed Applicant's appeal on March 6, 2017, for failure to provide a sufficient explanation, pursuant to Rule 203(d)(1)(B)(iv) SCACR. State v. Thomas, App. Case No. 2016-002571 (S.C. App. March 6, 2017). The remittitur was returned to the circuit court on March 27, 2017.

FACTUAL HISTORY

On December 30, 2015, Applicant was driving a 2007 Chrysler while traveling on Florence Rd. in Spartanburg County, South Carolina. (Tr. p. 14, lines 9-10). At the same time and place, a 2013 Chevrolet Impala was traveling the same direction, carrying a single passenger. (Tr. p. 14, lines 10-11). At approximately 4:28 p.m., Applicant attempted to pass the other vehicle and caused a collision, severely injuring the driver of the Impala. (Tr. p. 14, lines 5, 12-17). Trooper Cannon with the South Carolina Highway Patrol conducted the initial investigation.

Upon approaching Applicant's vehicle, Trooper Cannon immediately smelled a strong odor of alcohol and conducted a field sobriety test on Applicant. (Arrest Warrant Aff. p. 1). Based upon her performance in the sobriety exam, Applicant was placed under arrest. (Arrest Warrant

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Aff. p. 1). Subsequently, video evidence was acquired and the incident report was amended to reflect Applicant's fault in causing the accident. Applicant's blood was examined following the accident and was determined to contain a blood alcohol level of .142. (Tr. p. 14, lines 22-24). Applicant's blood results also revealed that she was under the influence of marijuana at the time of the accident. (Tr. p. lines 23-25).

Following the accident, the victim was transported to Spartanburg Regional Medical Center and treated for his injuries. (Tr. p. 13 lines 11-13). Victim's medical records admitted at the time of Applicant's guilty plea revealed that he suffered a broken collarbone, having been shattered in four places. (Tr. p. 14, lines 15-17). The injuries sustained by the victim required surgery, costing up to \$60,000 in medical bills. (Tr. p. 14, 17-21). At the time of the accident, Applicant had a suspended driver's license as a result of prior traffic violations. (Tr. p. 22, lines 6).

6).

ALLEGATIONS

In her application for post-conviction relief, Applicant alleges she is being denied post-conviction relief unlawfully for the following reasons:

1. Ineffective assistance of counsel:
 - a. "Failure to prepare trial strategy or tactics"
 - b. "Failure to prove motion of discovery to include video of wreck, no toxicology report"
 - c. "Failure to call witness for testimony"
 - d. "Statute 56-05-2945(B)(1) states great bodily injury mean bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. [Applicant's] victim only had a broken collar bone."
 - e. "Failure to call expert witness to formulate opinion concerning [victim's] injuries which established prejudice to [Applicant's] sixth amendment rights."



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- f. "Failure to include lesser included offense of reckless driving"
 - g. "All of this prejudice the outcome of the case and violated 14th and 6th amendment rights."
2. "Involuntary Guilty Plea"
- a. "Involuntary plea was unlawfully included and not made voluntarily or with a complete understanding of the nature of the charges and the inadequacies of the plea potential."

SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

Applicant Testimony

At the evidentiary hearing, Applicant testified on her own behalf. Applicant testified that she was aware that a successful post-conviction relief application would allow her a new trial, but that she could possibly face up to fifteen years if convicted. Applicant testified that when speaking to law enforcement at the scene of the accident, she did not feel as if she was a suspect in the accident. On cross-examination, Applicant admitted that the video evidence showed that she was at fault for the accident.

Applicant testified that she was being truthful during her guilty plea when she agreed to the Solicitor's recitation of the facts surrounding her case. Applicant testified that it was true that her blood alcohol level was .142 and contained levels of THC at the time of the accident. Applicant testified that she only met with her plea counsel twice prior to her guilty plea and that she never received a copy of her discovery file.

Plea Counsel's Testimony

Andrea Price, Esquire, testified at the evidentiary hearing on behalf of the State of South Carolina. Counsel testified as having represented Applicant during her guilty plea. Counsel testified that she received a completed discovery file of Applicant's case in February 2016. Counsel testified that she met with Applicant on May 3, 2016 to review the discovery file. During

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her review of the discovery file, Counsel testified that she was able to determine that Applicant's blood alcohol level was in fact .142 at the time of the accident. Counsel testified that discovery revealed that Applicant had made incriminating statements regarding her alcohol use, specifically that Applicant stated that she used alcohol all day, every day.

Counsel testified that she met with Applicant once the case was placed on the trial docket. Counsel testified that Applicant wished to proceed with a plea in order to avoid the uncertainty of a jury trial. Counsel testified that this is corroborated by the fact that Applicant signed her plea documents three days prior to the day she entered her guilty plea. According to Counsel, Applicant never expressed a desire to proceed to a trial. Counsel testified that based on the victim's injuries, she believed that the victim suffered great bodily injury as defined in the South Carolina Code of Laws. Counsel testified that prior to her guilty plea, Applicant and Counsel reviewed all of the discovery available to her.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard testimony at the post-conviction relief hearing. This Court has had the opportunity to observe the witnesses presented at the hearing, and can weigh their testimony and credibility accordingly. These credibility findings have been applied to the Court's findings and conclusions set forth below. Below are the findings of fact and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2017).

Ineffective Assistance of Counsel

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove



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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. at 443, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove that counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Id. (quoting Strickland v. Washington, 466 at 688). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, an 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).

After careful review of the entire record, including the testimony presented at the evidentiary hearing, based on the standard discussed above, this Court finds Applicant has failed to carry her burden of proof and has not established any ineffectiveness of counsel. Below are the findings in regards to each specific allegation of ineffective assistance of counsel raised by Applicant:



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Applicant alleges that plea counsel was ineffective in her representation during her guilty plea. Applicant alleges that her plea counsel failed to prepare trial strategy or tactics. Plea counsel testified credibly at the evidentiary hearing, detailing her last meeting with Applicant. Counsel testified that upon learning the case was set on the trial docket, Applicant signed her plea sheets and wished to enter her guilty plea rather than risk a trial. Applicant signed her plea sheets three days prior to entering her guilty plea. Based upon this testimony and Applicant's lack of evidence supporting her allegation, Applicant has failed to meet her burden of proof.

Applicant next alleges ineffective assistance of counsel for failing to call a witness for testimony, as well as failing to call an expert witness to formulate opinion concerning victim's injuries. Applicant had the opportunity to present witnesses at the evidentiary hearing to prove her allegations, but failed to provide any witness other than herself. By failing to provide these witnesses at the evidentiary hearing, Applicant is unable to establish any prejudice from counsel's failure to use them during the guilty plea. (See Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992) (prejudice from trial counsel's failure to interview or call witnesses could not be shown where witnesses did not testify at PCR hearing). Therefore, Applicant's allegations are deemed to be failing to meet her burden of proof.

Applicant alleges that her plea counsel was ineffective for failing to disprove the fact that the victim suffered great bodily injury. Specifically, Applicant does not believe the victim's injuries amount to what is required in S.C. Code § 56-05-2945(B):

As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

During her guilty plea, the Solicitor entered into evidence the victim's medical records related to the accident involving Applicant. These records were accepted without objection. As a result of



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the accident, the victim suffered a shattered clavicle that was broken in four places. It was also revealed that the victim underwent surgery and subsequent physical therapy treatments. Applicant offered no evidence to dispute the claim of "great bodily injury," other than asserting the victim "only had a broken collar bone." Applicant has failed to meet her burden of proof.

In her applicant for post-conviction relief, Applicant alleges the following additional claims of ineffective assistance of counsel:

- Failure to prove motion of discovery to include video of wreck, no toxicology report.
- Failure to include lesser included offense of reckless driving.
- All of this prejudice the outcome of the case and violated 14th and 6th amendment rights.

During the PCR hearing, Applicant failed to present testimony or other evidence to support these claims. Additionally, a review of the record finds the allegations are without merit. Based upon a review of the entire record and her failure to produce supportive testimony at the PCR hearing, Applicant has failed to meet her burden of proof. Therefore, the remaining allegations of ineffective assistance of counsel are denied and dismissed with prejudice.

Involuntary Guilty Plea

A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130,137, 654 S.E. 2d 870, 874 (Cl. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63 (1977)). An applicant may attack the voluntary, knowing, and intelligent character of a guilty plea entered on advice of counsel by demonstrating that counsel's representation was below an objective standard of reasonableness. Porter v. State, 368 S.C. 378, 629 S.E. 2d 353 (2006). To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his

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plea and the charges against him. Boykin v. Alabama, 395 U.S. 238 (1969); Roddy v. State, 339 S.C. 29 (2000).

Applicant alleges her guilty plea was not knowingly and voluntarily made. Applicant also alleges her guilty plea was not made with a complete understanding of the nature of the charges and the inadequacies of the plea potential. This Court finds the record supports Applicant's plea was made knowingly, voluntarily and upon the sound advice from Counsel. The underlying facts to the crime are overwhelming to establish the Applicant's guilt of the offenses to which she pled. Her plea attorney, Ms. Andrea Price, appeared credible when she testified during the evidentiary hearing. The transcript of the plea hearing is thorough as to the Applicant's understanding of her right to a trial and her willingness to forgo the trial. Specifically, the Transcript of Record shows that the Judge questioned the Applicant extensively regarding her willingness to enter the guilty plea, her understanding of the guilty plea, and the potential sentence of pleading guilty. Therefore, the Applicant has failed to meet her burden of proof.

CONCLUSION

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

This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record 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), SCRCP, provides if the applicant wishes to seek appellate review, post-conviction relief



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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. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State.

AND IT IS SO ORDERED this 19th day of May, 2018.



GRACE G. KNIE
Presiding Judge
Seventh Judicial Circuit

Spartanburg South Carolina

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M. HOPE BLACKLEY



Spartanburg County

Spartanburg County Court House
180 Magnolia Street
P. O. Box 3483
Spartanburg, SC 29304-3483

Phone (864) 596-2291
Fax (864) 596-2239



M. Hope Blackley
Clerk of Court

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

7TH JUDICIAL CIRCUIT

Sasha D. Thomas
Applicant # *324945*

CASE # *2017CP48-2247*

Steel
VS
Respondent

CERTIFICATE OF SERVICE

I certify that, on this date, I served a copy of the *Order Dismissal*
In this action dated *5-19*, *2018* on *5-21-18*

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

Megan Jameson
Susan Ross

5-21-18
(Date)

Corie Gray
(Signature)

DOCKET NO. -

16-GS-42-1425

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAR 28 2016 TERM

THE STATE
v.

SASHA DEYOND THOMAS

Indictment for

**FELONY DUI -- GREAT BODILY INJURY
(Count I)**

SC Code: 56-5-2945 (A) (1); CDR Code: 0406
Class FEL/D

**DUS/DRIVING UNDER SUSPENSION
(Count II)**

SC Code: 56-1-460; CDR Code: 0624
Class C

WITNESSES

South Carolina Highway Patrol

True Bill

ARREST WARRANT NUMBER

2016A4210200176

H555497

ACTION OF GRAND JURY

MAR 25 2016

Foreperson of Grand Jury
Date:

1. UNLAWFUL POSSESSION OF FIREARM

2. POSSESSION OF FIREARM

3. CARRYING CONCEALED WEAPON

4. BATTERY

5. UNLAWFUL POSSESSION OF FIREARM

6. UNLAWFUL POSSESSION OF FIREARM

Foreperson of Petit Jury

Date:

7. UNLAWFUL POSSESSION OF FIREARM

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M. HOPE BURGLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAR 25 2016, the

Grand Jurors of Spartanburg County present upon their oath:

FELONY DUI – GREAT BODILY INJURY (Count I)

That the Defendant, Sasha Deyond Thomas, did in Spartanburg County on or about December 30, 2015, drive a motor vehicle while under the influence of alcohol, drugs, or a combination of alcohol and drugs, and violated an act forbidden by law or neglected any duty imposed by law in the driving of the vehicle, to-wit:

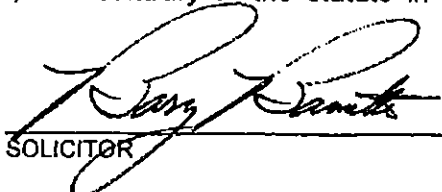
- (1) Restriction on Speeding (Article II, Section 56), and/or
- (2) Failure to maintain proper control of vehicle, and/or
- (3) Driving Left of Center (Sections 56-5-1810 and 56-5-1880), and/or
- (4) Failure to follow right of way restrictions (Art 17, Section 56) and/or
- (5) Reckless Driving (Section 56-5-2920) and/or
- (6) Driver's failure to exercise due care and/or
- (7) Failure to maintain a proper lookout for other traffic and/or pedestrians and/or
- (8) Driving too fast for conditions (Section 56-5-1560) and/or
- (9) Driving while license was suspended (Section 56-1-460)

Which proximately caused Great Bodily Injury to William Harold Miller, in violation of §56-05-2945 (A) (1), of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

DUS/DRIVING UNDER SUSPENSION (Count II)

That the Defendant, Sasha Deyond Thomas, did in Spartanburg County on or about December 30, 2015, drive a motor vehicle on a public highway of this State when her license to drive was canceled, suspended or revoked, all in violation of §56-1-460(A)(1)(a), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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


 SOLICITOR