

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_  
Certiorari to Florence County

Honorable George M. McFaddin, Circuit Court Judge

\_\_\_\_\_  
CHRISTOPHER COOPER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-000112

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

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S.C. SUPREME COURT

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State of South Carolina	)	Court of General Sessions
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2016-GS-21-00068
	)	Case No. 2016-GS-21-00798

State of South Carolina	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
Christopher A. Cooper,	)	
	)	
Defendant.	)	
	)	

June 12, 2017  
 Florence, South Carolina

B E F O R E:

The Honorable D. Craig Brown, Judge

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

John Jepertinger, Esquire  
 Attorney for the Plaintiff

Marshall Weaver, Esquire  
 Attorney for the Defendant

Krystal J. Smith  
 Circuit Court Reporter

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

COURT REPORTER LEGEND

dashes --	intentional or purposeful interruption or change in thought
ellipses . . .	trailing off
[ph]	phonetically written
[sic]	written as said

1 JUNE 12, 2017

2 (WHEREUPON, the proceedings began at 11:29 a.m. The  
3 defendant was present, along with his counsel of  
4 record.)

5 THE COURT: All right. Listen up. I'm going to go over  
6 everyone's constitutional rights with you. When you plead  
7 guilty, you give up certain important constitutional rights.

8 Each of you have a right to a jury trial. At a jury  
9 trial, I would tell the jury that you are presumed innocent,  
10 that the State has to prove you guilty beyond a reasonable  
11 doubt.

12 You'd have the right to question witnesses against you.  
13 You'd have the right to remain silent and, if you did go to  
14 trial and remain silent, I would tell the jury that they  
15 could not hold that against you.

16 You'd have the right to present a defense, although  
17 you're not required to do so. If you made any incriminating  
18 statements, you'd have a right to challenge the admissibility  
19 of those statements.

20 Does anyone in here not understand those rights?

21 (WHEREUPON, there was no response.)

22 THE COURT: When you plead guilty, you give up those  
23 rights. Does anyone in here not understand that when they  
24 plead guilty they give up those rights?

25 (WHEREUPON, there was no response.)

1 THE COURT: Now, some of you may come into this court  
2 and waive presentment of your charge -- plead guilty waiving  
3 presentment of your charge to the grand jury. Please  
4 understand that each of you have a right to have your charge  
5 or charges presented to the grand jury for them to determine  
6 whether or not there is sufficient evidence to bring your  
7 case into this court.

8 However, you may waive that right, proceed here today,  
9 and plead guilty. Does anyone in here not understand that  
10 they have a right to have their charge or charges presented  
11 to the grand jury?

12 (WHEREUPON, there was no response.)

13 THE COURT: Does anyone in here not understand that they  
14 may waive that right, proceed here, and plead guilty?

15 (WHEREUPON, there was no response.)

16 THE COURT: All right. Mr. Jupertinger?

17 MR. JEPERTINGER: Mr. Christopher Cooper, if you could,  
18 come around with Mr. Weaver, your attorney.

19 Mr. Smith, if you would like to come up and sit in the  
20 -- may he have that chair, please? There is no chair for  
21 him.

22 If it please the Court, Your Honor, standing before you  
23 is Christopher Antwan Cooper on two separate indictments.

24 2016-GS-21-798, in that indictment, Mr. Cooper was  
25 initially charged with the crime of burglary in the first

1 degree, Your Honor. He's pleading to the lesser-included  
2 offense of burglary second degree, violent, Your Honor. It  
3 is a violent and serious offense, Judge, and the State has  
4 negotiated a sentence with the defendant via his attorney for  
5 a 13-year prison sentence.

6 In regards to 2016-GS-21-68, he's pleading to  
7 shoplifting, third or greater, and it's based on prior  
8 larceny convictions, Your Honor. The State has negotiated a  
9 sentence for time served in that regard for Mr. Cooper.

10 Your Honor, there are some other indictments that he was  
11 charged with with some other codefendants. All of those  
12 other charges in terms of indictments 799, 800, 801, and 802  
13 are being dismissed against Mr. Cooper upon your accepting of  
14 the plea in this matter.

15 THE COURT: All right. Sir, if you will raise your  
16 right hand? Do you swear to tell the truth, the whole truth,  
17 and nothing but the truth, so help you God?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. You can put your hand down. You  
20 are Christopher Antwan Cooper?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Have you ever been treated for alcohol  
23 abuse, drug abuse, or mental illness?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You have been? What have you been treated

1 for, sir?

2 THE DEFENDANT: Alcohol.

3 THE COURT: When was that?

4 THE DEFENDANT: 2010.

5 THE COURT: Okay. Did you complete the program?

6 THE DEFENDANT: No, sir. I completed Alcohol Anonymous  
7 in Effingham.

8 THE COURT: All right. The fact that you received that  
9 type of treatment, does it in any way affect your ability to  
10 know and understand what you're doing here today?

11 THE DEFENDANT: No, sir.

12 THE COURT: Within the last 24 hours, have you taken any  
13 medication, drugs, or alcohol?

14 THE DEFENDANT: No, sir.

15 THE COURT: Are you aware of any physical, emotional or  
16 nervous problem that would prevent you or keep you from  
17 understanding what's going on here today?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: You are? Are you -- listen to my question  
20 carefully. And you may have answered it appropriately. Are  
21 you aware of any physical problems that would prevent you  
22 from understanding what's going on here today?

23 THE DEFENDANT: No. No, sir.

24 THE COURT: How about emotional problems?

25 THE DEFENDANT: No, sir.

1 THE COURT: How about any nervous problems?

2 THE DEFENDANT: No, sir.

3 THE COURT: All right. The State indicates, Mr. Cooper,  
4 that you're pleading guilty to two separate offenses, the  
5 first being a shoplifting, value more than 2,000 and but less  
6 than 10,000; is that right? Shoplifting, third or greater?  
7 Is that right, Mr. Jepertinger?

8 MR. JEPERTINGER: That is correct.

9 THE COURT: Is that right, Mr. Cooper?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand that it carries up to 10  
12 years?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: The State has indicated that they've  
15 negotiated a time-served sentence on that particular charge.  
16 Is that your understanding?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. The State also indicates that  
19 you're pleading guilty to a burglary second degree, violent  
20 offense. Is that right?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you understand that carries up to 15  
23 years?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand also that it's considered

1 under South Carolina law to be a violent offense? Do you  
2 understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: As well as a serious offense? Do you  
5 understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand by pleading guilty to this  
8 charge today that it falls under -- as a serious offense,  
9 falls under the three-strike rule? Do you understand that?

10 THE DEFENDANT: Uh-huh. Yes, sir.

11 THE COURT: Mr. Weaver, have you explained that to him?

12 MR. WEAVER: I did, Your Honor.

13 THE COURT: Are you confident he understands that?

14 MR. WEAVER: I am, Your Honor.

15 THE COURT: All right. All right. Understanding that  
16 that particular charge, Mr. Cooper, carries up to 15 years,  
17 that it is a violent offense, as well as a serious offense  
18 falling under the three-strike rule, do you still want to  
19 plead guilty to this charge here today?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. The State has indicated that  
22 they've negotiated a sentence with your lawyer of 13 years.  
23 Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand under a negotiated plea, I

1 can either accept it or set it aside and let you plead on a  
2 different day or either go to trial? Those are your options.  
3 Do you understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you want me to accept this negotiated  
6 plea that your lawyer and the State has worked out here and  
7 impose this 13-year sentence today?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Now, were you in here when I  
10 just went through everyone's constitutional rights with them?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you understand those rights?

13 THE DEFENDANT: I understand.

14 THE COURT: Do you understand when you plead guilty you  
15 give up those rights?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Understanding your rights and understanding  
18 that when you plead guilty you give them up, how do you plead  
19 to these charges here today? Guilty or not guilty?

20 THE DEFENDANT: Guilty.

21 THE COURT: You're represented by Mr. Weaver. Are you  
22 satisfied with his representation?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Have you talked to him enough?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Have you understood your talks with him?

2 THE DEFENDANT: Yes, I did.

3 THE COURT: Do you have any complaints about him?

4 THE DEFENDANT: No, sir.

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

7 THE DEFENDANT: No, sir.

8 THE COURT: Anyone used any threats, force, pressure, or  
9 intimidation to get you to plead?

10 THE DEFENDANT: No, sir.

11 THE COURT: Has anyone mistreated you in any way,  
12 whether it be law enforcement or Solicitor's Office?

13 THE DEFENDANT: No, sir.

14 THE COURT: Have you had enough time to make up your  
15 mind as to whether or not you want to plead guilty or go to  
16 trial?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And what do you wish to do?

19 THE DEFENDANT: Guilty.

20 THE COURT: As to each of these charges?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Are you pleading guilty as to each of these  
23 charges of your own free will?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Have you understood my questions?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Mr. Jepertinger?

3 MR. JEPERTINGER: Yes, sir. I'm going to go over the  
4 shoplifting first.

5 That was on July 30<sup>th</sup> of 2015 here in the County of  
6 Florence at a place called Royal Jewelers. Mr. Cooper went  
7 in to Royal Jewelers. They showed him a gold necklace.  
8 While the person behind the counter was distracted doing  
9 something else, Mr. Cooper stole the gold necklace from Royal  
10 Jewelers. And from video surveillance, they have these two  
11 pictures of Mr. Cooper in there with the gold necklace there.

12 In terms of victim notification, the victims never  
13 responded. I don't know if they're still in business, but  
14 they've never responded, Judge.

15 THE COURT: All right.

16 MR. JEPERTINGER: He had two prior larcenies and we'll  
17 go over his record a little bit later as it deals with the  
18 burglary case. But he had a grand larceny. It looks like it  
19 was back in 2012. And he had two counts of petty larceny  
20 back in 2014, and those are all property offenses, Judge.

21 On -- it looks like on January the 15<sup>th</sup> of 2016 here on  
22 [REDACTED] [ph] [REDACTED], Mr. [REDACTED] [REDACTED], who is the owner of that  
23 house, was at -- was at work and he got a phone call from his  
24 father, [REDACTED] [REDACTED], to say that his home was just  
25 burglarized. And what happened was around noonish of that

1 day in question, Mr. [REDACTED] [REDACTED], the father, was going  
2 over to the residence and his purpose was -- he was going to  
3 walk their dog. The dog's name was Toby. Toby was in a cage  
4 in the house.

5 When he walked up to his son's house -- and he lived I  
6 think right across the street from his son. He noticed that  
7 there was a car in the carport with the trunk facing the rear  
8 door and the car was running. At that point, he rang the  
9 doorbell just to see if there were some visitors. It was --  
10 it was a car that didn't belong to Mr. [REDACTED] [REDACTED] or his  
11 wife.

12 And no one answered. So he unlocked the deadbolt there  
13 and, as soon as he got in, he noticed in the kitchen that  
14 there were four or five air rifles -- excuse me -- three air  
15 rifles on the table and there were two long guns, I think  
16 shotguns, also -- no. One was a McHenry rifle and one was a  
17 shotgun, and they were leaning up against the couch.

18 At that point, he said these are no visitors. Someone's  
19 in the house. He noticed that the lights were on in his  
20 son's master bedroom and bathroom. So he picked up one of  
21 the guns, the shotgun, and proceeded to go to the bedroom and  
22 the bathroom.

23 And it wasn't a laughing matter at this point, but we  
24 found out that this gun that he picked up was inoperable and  
25 had no shells in it at that time. So Mr. [REDACTED] [REDACTED],

1 being part of that greatest generation, just -- I mean I  
2 don't know whether it was foolhardy or not. He went back  
3 there and no one was in the bathroom. No one was in the  
4 bedroom.

5 He walks back to the living room. Now, he can see  
6 clearly that the point of entry was a back door. In fact,  
7 the back door had -- and the back door led into their living  
8 room. The back door had a deadbolt on it. The door had been  
9 kicked open. The casing was destroyed. The deadbolt was  
10 still engaged, but it was just knocked off its casing.

11 Well, when he walks back in there, Mr. Cooper and Mr.  
12 McWhite, the co-defendant, walk right into the house when  
13 he's up there. Mr. [REDACTED] [REDACTED] holds the guns and says get  
14 out, like that, and apparently they didn't know if the gun  
15 was loaded or not loaded. They left.

16 Now, Mr. Cooper was wearing a baseball cap at that time.  
17 Mr. [REDACTED] [REDACTED] said he was wearing a cap. I don't know if  
18 he could identify the cap because he was a little startled at  
19 finding someone in his house. They were both African-  
20 American males fitting the description. He got a good look  
21 at Mr. Cooper, and he identified both Mr. Cooper and Mr.  
22 McWhite in a photo laydown two days later.

23 When Mr. Cooper ran from the inside of the residence  
24 back to the running vehicle, that hat fell off his head.  
25 They swabbed that hat, law enforcement did, and it came back

1 from SLED saying this.

2       The DNA profile developed from Item 1.1 is a mixture of  
3 at least three individuals, and we don't know if that was the  
4 person -- you know, the person in Malaysia or El Salvador  
5 that made the hat or the person selling the hat, but it did  
6 say this.

7       The partial DNA profile of the major contributor to this  
8 mixture matches the DNA profile of Antwan Cooper and has been  
9 entered in the combined DNA Index system or CODIS. The  
10 probability of randomly selecting an unrelated individual  
11 having a DNA profile matching the major contributor to this  
12 mixture is approximately one in 846 sextillion and that, due  
13 to the inability to calculate a statistic, no further  
14 interpretation will be offered regarding the minor  
15 contributor to this mixture.

16       No question it was -- that hat was Mr. Cooper's.

17       Then, while the two are running to the car, Mr. [REDACTED]  
18 [REDACTED] runs back to where his point of entry was by the  
19 kitchen door and looks out as they get in the vehicle and  
20 drive off, and he takes down the license tag number. The  
21 license tag number comes back to Rosalind Herbert. Rosalind  
22 Herbert is what I would call a friend, sometimes girlfriend,  
23 of Mr. Cooper.

24       At Rosalind Herbert's house, they find Mr. Cooper the  
25 next morning, as well as a stolen Ruger 9mm pistol that

1 belonged to the victim, Mr. [REDACTED] [REDACTED]. They also find an  
2 iPad there. He provided the serial number of the iPad and  
3 the iPad that they found there was -- matched the serial  
4 number of the iPad that was stolen. In the car that he drove  
5 off in, they found an iPod and I asked Mr. [REDACTED] [REDACTED] how did  
6 you know that was your iPod. He goes when I checked the  
7 photos, they were all my family's photos.

8 Your Honor, Ms. Herbert would've come in and testified  
9 saying she had nothing to do with the crime. That he dropped  
10 her off at work. She loaned him the car that day. We  
11 would've had the testimony of [REDACTED] [REDACTED] and the  
12 identification, the DNA, and the stolen property found in Ms.  
13 Herbert's house, Your Honor.

14 In terms of prior convictions, he does have a prior  
15 burglary conviction. It looks like -- it's hard to tell, but  
16 he was given -- I think in 2010 he was given five years,  
17 suspended 10 days and five years' probation, Judge.

18 And he also had a conviction out of the state of Georgia  
19 for giving false name, address, or birthdate to law  
20 enforcement. That was back in 2014. Besides the larceny  
21 records I have already recited to the Court in regards to the  
22 shoplifting conviction.

23 I think that's about it. I don't know if you would want  
24 to hear from Mr. [REDACTED] at this point.

25 THE COURT: I will in just a minute, if he wants to

1 speak. Give me just a second.

2 Before I go any further, Mr. Cooper, you heard the facts  
3 as stated by the prosecutor as it relates to each of these  
4 charges. Do you agree with those facts?

5 THE DEFENDANT: No, sir.

6 THE COURT: Do you agree you're guilty of shoplifting,  
7 third or greater?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you agree that you took the necklace from  
10 the jewelry store?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: With regards to the burglary second degree,  
13 do you agree that you're guilty of burglary in the second  
14 degree?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now, let me ask you this. You said you --  
17 when I asked you whether or not you agreed with the facts of  
18 the solicitor, you said you did not. Did you go into the  
19 house of Mr. [REDACTED]?

20 THE DEFENDANT: No, sir.

21 THE COURT: Mr. Jupertinger?

22 MR. JEPERTINGER: Judge, the evidence that the State  
23 would present --

24 THE COURT: Okay.

25 MR. JEPERTINGER: -- is that he was in the house.

1 MR. WEAVER: May we approach, Your Honor?

2 THE COURT: Sir?

3 MR. WEAVER: May we approach, Your Honor?

4 THE COURT: Yeah.

5 (WHEREUPON, a bench conference was held as follows.)

6 THE COURT: I'm not going to dicker back and forth over

7 --

8 MR. WEAVER: Yes, Your Honor.

9 THE COURT: -- the facts. I mean it's an unlawful  
10 entry. Is that not right, Mr. Jepertinger?

11 MR. JEPERTINGER: Yes.

12 MR. WEAVER: That's right, Your Honor, but under the  
13 hands of one, hands of all. He doesn't say that he wasn't  
14 there. He's just saying he didn't go in the house.

15 THE COURT: Well, he's identified as going in the house.  
16 He said he was -- the testimony is he was in the house. Is  
17 it an Alford plea? Is it a -- because the facts as given and  
18 was going to come in here and be testified to, he can say he  
19 didn't go in the house all day long, but the hat was in the  
20 house, wasn't it?

21 MR. JEPERTINGER: Hat was on the outside of the house,  
22 but he was on the inside of the house according to [REDACTED]  
23 [REDACTED], this gentleman's father.

24 MR. WEAVER: Your Honor, I can bring him up to speed on  
25 North Carolina v. Alford if -- but he doesn't deny that he

1 was present. He just denies that he went actually in the  
2 house. Under hands of one, hands of all, I think --

3 THE COURT: I understand that.

4 MR. WEAVER: Yes, Your Honor.

5 MR. JEPERTINGER: Since it's a negotiated sentence, that  
6 doesn't matter, Judge.

7 THE COURT: Okay. All right. Talk to your client a  
8 minute.

9 MR. WEAVER: Yes, Your Honor.

10 (WHEREUPON, the bench conference ended and there was a  
11 pause in the proceedings, after which the proceedings  
12 resumed as follows.)

13 THE COURT: All right. Mr. Weaver, you've talked with  
14 your client?

15 MR. WEAVER: Yes, Your Honor, I have.

16 THE COURT: Mr. Cooper, let me ask you -- let me ask you  
17 this question, Mr. Cooper. The State presented facts to me,  
18 of which your lawyer has conveyed to me up here at sidebar  
19 that you don't agree with all of those facts. More  
20 particularly, your lawyer has indicated that you deny having  
21 gone in the house; is that correct?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Now, your lawyer, I guess, suppose talked to  
24 you just now about a North Carolina v. Alford plea; is that  
25 correct?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You understand, based upon the facts  
3 presented by the State, if the case were to go to trial and  
4 the State would have presented those facts, is it your belief  
5 there is a reasonable probability that you would be convicted  
6 of this charge?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you understand if you enter a North -- a  
9 plea pursuant to North Carolina v. Alford, you understand  
10 it's still considered by the Court a guilty plea? You  
11 understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you understand also it's going to be on  
14 your record as a guilty plea?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Now, Mr. Weaver, you've further explained to  
17 him under the law in this state what's considered to be the  
18 hand of one is the hand of all?

19 MR. WEAVER: I have, Your Honor, at length.

20 THE COURT: Mr. Cooper, do you understand that even if  
21 you deny having gone in the house, you admit you were there?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You admit you knew what was going on?  
24 Either you do or you don't.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. And you understand that even if  
2 you didn't go in the house, if you were present, participated  
3 in some capacity, knew what was going on, that you could be  
4 convicted under the hand of one, hand of all? Do you  
5 understand that?

6 THE DEFENDANT: I didn't then, but --

7 THE COURT: You understand?

8 THE DEFENDANT: -- it's something I know now.

9 THE COURT: All right. You understand that. Do you  
10 still want to go forward here today with this plea?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Are you, in fact, guilty of  
13 these two charges?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And how do you plead to each of these  
16 charges?

17 THE DEFENDANT: Guilty.

18 THE COURT: All right. I find that there is a  
19 substantial factual basis for this defendant's plea as to  
20 each of these charges. That his decision to plead guilty as  
21 to each of these charges has been entered into freely,  
22 voluntarily, knowingly, and intelligently, and that he's had  
23 the advice and counsel of an attorney with whom he's  
24 indicated he's completely satisfied.

25 Before I hear from you, Mr. Weaver, I'm going to give

1 Mr. [REDACTED] an opportunity to speak, if he so desires. Mr.  
2 [REDACTED], anything you want to tell me, sir? State your full  
3 name for the record first. Direct any comments to me,  
4 please.

5 MR. SMITH: Yes, sir. It's [REDACTED] [REDACTED].

6 THE COURT: Yes, sir.

7 MR. SMITH: I just -- it took a lot, first, to go  
8 through this burglary. We had to change our lives, enhance  
9 our security system. It cost us money in insurance and  
10 everything. There are times when I wish that the sentence  
11 was a whole lot more harsh than it is, Your Honor, but we've  
12 negotiated a lot in this case and I think this is fair for  
13 Mr. Cooper.

14 And, you know, hopefully in the future, he can see what  
15 he's been doing wrong. He can change who he hangs around and  
16 change his way of life and do better in the future. That's  
17 my hope for him. Thank you.

18 THE COURT: Thank you, sir. Mr. Jepertinger, anything  
19 further from the State?

20 MR. JEPERTINGER: No, sir. It's negotiated. I mean --

21 THE COURT: All right.

22 MR. JEPERTINGER: I was just going to say that Mr. Smith  
23 is -- we didn't -- I didn't place in terms of my facts that  
24 there's property still missing that they'll never recover  
25 that has great sentimental value, but that's the nature of

1 these things.

2 THE COURT: All right. Mr. Weaver, I'll be happy to  
3 hear from you, sir.

4 MR. WEAVER: Yes, Your Honor. Your Honor, Mr. Cooper is  
5 29 years old. He has two children, ages 1 and 5. Before  
6 this incident took place, he worked as a forklift driver and  
7 worked at Longhorn.

8 He's here today with this mother -- his mother, whose  
9 name is Neva Bailey, and his sister, whose name is Leticia  
10 Roberts. And his mother has stood beside him and been there  
11 for him every step of the way, and she really loves her son.

12 Your Honor, my client has been incarcerated 513 days. I  
13 would ask for credit for the time served that he's had, and  
14 Ms. Bailey would like to address the Court at the appropriate  
15 time, Your Honor.

16 THE COURT: You said 513?

17 MR. WEAVER: Yes, Your Honor.

18 THE COURT: Okay. Yes, ma'am? Tell me your name for  
19 the record, please.

20 MS. BAILEY: Neva Bailey.

21 THE COURT: Yes, ma'am, Ms. Bailey?

22 MS. BAILEY: First of all, I would like to apologize  
23 here to Mr. Smith. No one ever wants anything taken from  
24 them, including their child.

25 But at the same time, I've stood by my son, but I'm not

1 the type of mother to stand when you're wrong. He has done  
2 wrong in his life truly, and that's why we're here today.  
3 But at the same time, I believe in a justice system that does  
4 things right as well. I think there's a lot of things that  
5 has been done and said that I don't fully agree with. And I  
6 kind of talked him into this guilty plea because I don't want  
7 my child to face 25 years to life.

8 THE COURT: 15 to life.

9 MS. BAILEY: A life sentence.

10 THE COURT: Right.

11 MS. BAILEY: For first-degree burglary.

12 THE COURT: Yes, ma'am.

13 MS. BAILEY: So as we stand here today, I just ask -- I  
14 know it was negotiated as far as I'm concerned and I know the  
15 law of the hands of one is the hands of all, but I don't  
16 think there's a law that the time of one is the time of all,  
17 and that has been my biggest argument the entire time.

18 THE COURT: All right.

19 MS. BAILEY: That's it.

20 THE COURT: Thank you, ma'am. Mr. Cooper, anything you  
21 want to tell me?

22 THE DEFENDANT: Yes, sir. First of all, I apologize,  
23 you know, for being in this courtroom. Second of all, to Mr.  
24 [REDACTED], who was victimized, I apologize you had to go through  
25 that.

1 Like you said, your biggest hope is that I learned, you  
2 know, being in jail surroundings, you know, and I can tell  
3 you now, Your Honor, like, being in solitary confinement, you  
4 know, in a room 20 hours a day, you know, since 513 days,  
5 you know, I had a lot of time to think to myself. You know,  
6 it was, like, I mean I came, you know, doing wrong and, since  
7 being in Effingham, I mean I graduated RU, you know. I got  
8 on a first name basis with Cpl. Stone, you know. We talk on  
9 the phone regularly.

10 You know, I graduated an AA program and was baptized. I  
11 mean it's not like I was just there waiting for time to go  
12 by, you know. I spent a lot of time, you know, getting  
13 myself together because, like he said, I have a family. It's  
14 not the time -- I'm not going to use my children, you know,  
15 to say, you know, I did this. You know what I'm saying?  
16 Because even though I have children, I mean I'm not using  
17 them as a steppingstone, you know.

18 I know I'm wrong, you know, and, like I said, I never  
19 knew just by being there you could, you know, get the same  
20 thing as your co-defendant. I mean now I know it's the hands  
21 of one is the hands of all, you know.

22 So I ask you, Your Honor, like, if there's any way, any  
23 possibility that you would not go with the plea. I mean,  
24 like I said, I've been there almost 2 years and I mean I'm  
25 learning. You know what I mean? I've learned from my

1 mistakes. Once again, I apologize to you, Mr. [REDACTED].

2 THE COURT: All right. Thank you, Mr. Cooper. Mr.  
3 Weaver, anything else?

4 MR. WEAVER: Yes, Your Honor. Just for some  
5 clarification and semantics, Your Honor, he said just now  
6 that if there's any way possible to not go with the plea, I  
7 believe he's referring to the sentencing only, not the actual  
8 entering of the guilty plea, Your Honor, and I would like to  
9 clear that up if possible, Your Honor.

10 THE COURT: I mean I -- go ahead.

11 (WHEREUPON, there was a pause in the proceedings for the  
12 defendant and his counsel to confer, after which the  
13 proceedings resumed as follows.)

14 THE COURT: I mean on a negotiated plea, either I go  
15 along with it or I can set it aside. Do you understand that?  
16 I mean I've got to give you 13 years if I go along and if I  
17 accept the plea. Do you understand that?

18 THE DEFENDANT: All right.

19 THE COURT: Do you understand that?

20 THE DEFENDANT: Yes, sir. I understand.

21 THE COURT: Do you still want to have your plea of  
22 guilty?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Ms. Bailey, I can't imagine the  
25 shoes you're standing in right now with your son looking at

1 going to jail for 13 years, minus what he's already done.

2 I can say this. The facts as stated by the -- alleged  
3 by the prosecution of what happened and what they'd have  
4 brought in here to testify to by Mr. ██████'s father that your  
5 son was in that house, I understand that he disputes that to  
6 some -- to an extent. I will say this and will say this to  
7 you, Mr. Cooper, as well.

8 You are very fortunate if you were in that house to  
9 still be alive because there are many people that would have  
10 shot you on the spot, whether his father knew or didn't know  
11 that firearm was operable. While he's going away for a  
12 period of time, Ms. Bailey, he could've been killed that day.  
13 He could've been killed that day.

14 SENTENCE

15 THE COURT: All right. On 2016-GS-21-00068,  
16 shoplifting, third or greater, the defendant is committed to  
17 the State -- County Detention Center -- County Detention  
18 Center for a period of 513 days. Give him credit for 513  
19 days.

20 On 2016-GS-21-00798, the defendant is hereby committed  
21 to the State Department of Corrections for a period of 13  
22 years. Give him credit for 513 days.

23 I will say this, Mr. Cooper, as well. I commend you in  
24 doing what you've done since you've been incarcerated out  
25 there in making efforts to try to get yourself on the right

1 track. You're still going to be a young man when you're  
2 released from the Department of Corrections with a lot of  
3 life in front of you, provided you make the right decisions,  
4 you know. You can be successful and you can -- you can keep  
5 it on the right track. Good luck to you.

6 MR. JEPERTINGER: Thank you, Your Honor.

7 THE DEFENDANT: Thank you.

8 MR. WEAVER: Thank you, Your Honor.

9 (WHEREUPON, the proceedings ended at 12:02 p.m.)

10

11 --- END REQUESTED TRANSCRIPT ---

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State of South Carolina        )  
  )     Certificate  
County of Florence            )

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 28, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Florence County, South Carolina, on the 12<sup>th</sup> day of June, 2017.

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

Krystal J. Smith  
Court Reporter

Florence, South Carolina  
November 6, 2017

FORM 5

20 17 CP 21 2181

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF )  
 )  
 CHRISTOPHER ANTIWAN COOPER #351838 )  
 Full name and prison number (if any) of Applicant. )  
 )  
 v. )  
 )  
 State of South Carolina )  
 )

IN THE COURT OF COMMON PLEAS

APPLICANT FOR  
POST-CONVICTION RELIEF

2017 AUG 11 AM 2:38  
 DORIS BULLOCK-POHARA  
 CCJP SCS  
 FLORENCE COUNTY, SC

FILED

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 SCDC - KIRKLAND
2. Name and location of Court which imposed sentence FLORENCE
3. Name(s) of co-defendant(s) (if any) CHRISTOPHER JUSTIN MCWITTE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2016-GS-21-00798
  - (b) N/A
  - (c) N/A
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) 6-12-17
  - (b) N/A



- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
- (b) I BELIEVE THE PROSECUTOR USED SUBTERFUGE REGARDING DNA & VIOLATED BRADY
- (c) I BELIEVE THE GRAND JURY PROCESS WAS UNCONSTITUTIONAL

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

- (a) LESS THAN 30 MINUTES TOTAL CONSULTATION
- (b) MY DISCOVERY DID NOT CONTAIN A CHAIN OF CUSTODY RE: THE DNA
- (c) IT IS MY UNDERSTANDING THE GJ INDICTS ABOUT 99% WITH ZERO OVERSIGHT.

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

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

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

(a) the specific nature thereof:

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

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

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

(c) the disposition thereof:

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

iv. N/A

(d) the date of each such disposition:

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

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. N/A

iii. N/A

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

i. N/A

ii. N/A

iii. N/A

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

(a) I NEED COMPATENT COUNSEL TO PROCEED.

(b) N/A

(c) N/A

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? N/A
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A

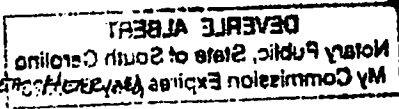
18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

- i. HENRY ANDERSON
- ii. MARSHALL WENNER
- iii. N/A

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

- i. BOND HEARING
- ii. BOND HEARING/PLEA HEARING
- iii. N/A



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

I WANT A REDUCED SENTENCE

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

NO

RECEIVED  
 11/11/08 10:33 AM  
 FILED

STATE OF SOUTH CAROLINA )

VERIFICATION

County of )  
CHRISTOPHER ANTIWAN COOPER )

I, \_\_\_\_\_, 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.

*Christa Lye*  
\_\_\_\_\_

SWORN to and subscribed before me this 9  
day of August, 2017.

*[Signature]*  
\_\_\_\_\_  
Notary Public (L.S.)

My Commission Expires:

**DEVERLE ALBERT**  
Notary Public, State of South Carolina  
My Commission Expires May 3, 2023

**FILED**

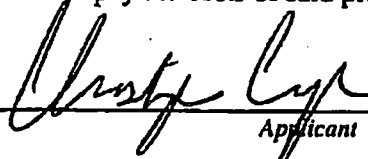
**2017 AUG 11 PM 2:38**  
**DORIS POULOS O'HARA**  
**CCCP & GS**  
**FLORENCE COUNTY, SC**

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

CHRISTOPHE ANTWAN COOPER

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

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

  
 \_\_\_\_\_  
 Applicant

SWORN or affirmed to and subscribed before me this

9<sup>th</sup> day of August, 2017.

  
 \_\_\_\_\_  
 Notary Public

My Commission Expires:

DEVERLE ALBERT  
 Notary Public, State of South Carolina  
 My Commission Expires May 3, 2023

2017 AUG 11 PM 2:38  
 DORIS POULOS O'HARA  
 GCCP & GS  
 FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	
Christopher Antwan Cooper, #351838,	)	Case No.: 2017-CP-21-2181
	)	
Applicant,	)	
	)	<b>RETURN AND PARTIAL MOTION</b>
v.	)	<b>TO DISMISS</b>
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____		

Respondent, making its Return to the Application for Post-Conviction Relief (“PCR”) filed August 11, 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 Florence County Clerk of Court. In June 2016, the Florence County Grand Jury indicted Applicant for one count of burglary – first degree (2016-GS-21-0798), two counts of receiving stolen goods (-0799, -800), and three counts of financial transaction card fraud (-0801, -0802). Marshall Weaver, Esquire, represented Applicant. Deputy Solicitor John Jepertinger, Esquire, prosecuted the case. On August 12, 2017, Applicant pleaded guilty to the lesser included offense of burglary – second degree, violent, before the Honorable D. Craig Brown. The remaining charges were dismissed *nolle prosequi*. Pursuant to a negotiated sentence, Judge Brown sentenced Applicant to imprisonment for thirteen years. Applicant did not appeal his conviction or sentence.

Attached to this Return and incorporated by reference are the records of the Florence County Clerk of Court regarding the subject conviction, Applicant’s records from the South Carolina Department of Corrections, the plea transcript, and the application. Respondent reserves the right to

amend this Return upon receipt of any relevant materials.

## II.

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

1. Ineffective Assistance of Counsel, in that:
  - a. Applicant received “less than 30 minutes total consultation” with counsel.
2. Prosecutorial Misconduct/Brady violation
  - a. “My discovery did not include a chain of custody re: the DNA.”
3. Grand Jury process was unconstitutional, in that:
  - a. “It is my understanding the GJ indicts about 99% with zero oversight.”

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)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only person authorized to file amendments to this application. See Rule 11, SCRCP. 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.

## 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 his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so

undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove 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). 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 Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show 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, 106 (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 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 alleges the prosecutor committed misconduct in the form of a violation of the State's discovery obligation pursuant to Brady v. Maryland, 373 U.S. 83 (1963). In order to prevail on a Brady claim after a guilty plea, Applicant must show (1) the evidence would have been favorable to the accused, (2) the prosecution knew of or had the evidence in its possession, (3) the prosecution suppressed evidence, (4) the suppressed evidence was material to Applicant's guilt or punishment. Hyman v. State, 397 S.C. 35, 46, 723 S.E.2d 375, 380 (2012). A Brady violation does not warrant reversal if the evidence is merely cumulative or impeaching. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993). "A Brady violation is material when there is a reasonable probability that, but for the government's failure to disclose Brady evidence, the defendant would have refused to plead guilty and gone to trial." Hyman, 397 S.C. at 46, 723 S.E.2d at 380–81 (quoting Gibson v. State, 334 S.C. 515, 525, 514 S.E.2d 320, 325 (1999)).

Respondent submits Applicant cannot satisfy his burden of proof in regards to this allegation. However, the allegation of prosecutorial misconduct probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

## V.

Respondent interprets Applicant's third claim regarding the grand jury process as an allegation of infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which this constitutional violation is based. The Uniform Post-Conviction Procedure Act requires Applicant must "specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a

*prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since Applicant has failed to make such a showing with respect to this allegation, Respondent would submit that this allegation should be summarily dismissed for failing to specifically set forth the grounds upon which the application is based.

In the alternative, Respondent moves for a more definite statement regarding this allegation. Respondent respectfully submits it is incumbent upon Applicant, through counsel, to amend his application to set forth the specific facts upon which his allegation is based so Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests Applicant be required to amend his application to set forth specifically the grounds on which this claim is based.

#### VI.

Respondent therefore requests this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel and prosecutorial misconduct. As to Applicant allegation the grand jury process was unconstitutional, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that Applicant has failed to sufficiently set forth the grounds upon which the claim is based as required by S.C. Code § 17-27-50. In the alternative, Respondent moves for more definite statement regarding that allegation.

#### VII.

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

#### VIII.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of counsel and prosecutorial misconduct.

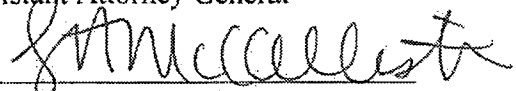
Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

LINDSEY A. MCCALLISTER  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

12/7, 2017

State of South Carolina	)	Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2017-CP-21-02181
	)	
	)	
Christopher A. Cooper,	)	
	)	
Applicant,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
The State of South Carolina,	)	
	)	
Respondent.	)	
	)	

April 4, 2018  
Florence, South Carolina

B E F O R E:

The Honorable George M. McFaddin, Judge

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

Jonathan Waller, Esquire  
Attorney for the Applicant

Lindsey McCallister, Esquire  
Attorney for the Respondent

Krystal J. Smith  
Circuit Court Reporter

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I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
Christopher Cooper	
Direct by Mr. Waller.....	6
Cross by Ms. McCallister.....	23
Redirect by Mr. Waller.....	27
Applicant Rests.....	28
Marshall Weaver	
Direct by Ms. McCallister.....	28
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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

COURT REPORTER LEGEND

dashes --	intentional or purposeful interruption or change in thought
ellipses . . .	trailing off
[ph]	phonetically written
[sic]	written as said

1 APRIL 4, 2018

2 (WHEREUPON, the proceedings began at 10:38 a.m.)

3 THE COURT: Mr. Cooper?

4 MR. WALLER: Yes, sir, Your Honor.

5 THE COURT: Do you need a few minutes to get ready for  
6 that?

7 MR. WALLER: I'm ready, Your Honor.

8 THE COURT: Okay. All right.

9 (WHEREUPON, a bench conference was held off the record,  
10 after which the proceedings resumed as follows.)

11 THE COURT: All right. Mr. Waller, sir, whenever you're  
12 ready.

13 Ms. McCallister, whenever you're ready, ma'am.

14 MS. MCCALLISTER: Thank you, Your Honor. May it please  
15 the Court, Your Honor.

16 THE COURT: Yes, ma'am.

17 MS. MCCALLISTER: This is Christopher Antwan Cooper  
18 versus the State of South Carolina, 2017-CP-21-2181.

19 Your Honor, Mr. Cooper was indicted in June of 2016 by  
20 the Florence County Grand Jury for one count of burglary in  
21 the first degree, two counts of receiving stolen goods, and  
22 three counts of financial transaction card fraud. He was  
23 represented on those charges by Marshall Weaver, and he was  
24 prosecuted by Deputy Solicitor John Jepertinger.

25 On August 12<sup>th</sup>, 2017, he pleaded guilty to the lesser-

1 included offense of burglary, second-degree, violent, before  
2 Judge Craig Brown, and the remaining charges were dismissed  
3 pursuant to the plea. That was a negotiated plea, Your  
4 Honor, and Judge Brown sentenced applicant to a term of  
5 imprisonment for 13 years. He did not appeal that conviction  
6 or the sentence.

7       However, he did timely file this application for post-  
8 conviction relief on August 11<sup>th</sup> -- I'm sorry. I said the  
9 wrong date of the plea, I believe. I said August of 2017. I  
10 believe it was August of 2016, and he filed this application  
11 in August of 2017.

12       THE COURT: Okay.

13       MS. MCCALLISTER: And he -- I'm sorry. Mr. Waller has  
14 been appointed to represent Mr. Cooper, and both Mr. Waller  
15 and Mr. Cooper are present today, Your Honor.

16       THE COURT: All right. Mr. Waller?

17       MR. WALLER: Thank you, Your Honor.

18       Your Honor, I would -- I would call Mr. Cooper. Your  
19 Honor, I would tell the Court that Mr. Cooper and I have  
20 discussed this case at length. We've also discussed the  
21 benefits and also the risks of the PCR process.

22       He understands that should we be successful here today  
23 that the convictions would be vacated and the charges -- his  
24 original charges would come back pending, which includes a  
25 burglary first degree, Your Honor. He does understand.

CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 THE COURT: Mr. Cooper, do you understand that, sir?

2 THE APPLICANT: Yes, sir.

3 THE COURT: All right. Then tell me what you  
4 understand.

5 THE APPLICANT: It goes if it gets granted.

6 THE COURT: Sir?

7 THE APPLICANT: If it gets granted, first-degree  
8 burglary is on the table.

9 THE COURT: That's right. All right. Okay.

10 MR. WALLER: Your Honor, the applicant would call Mr.  
11 Cooper.

12 THE COURT: All right, sir.

13 THE CLERK: Mr. Cooper, place your left hand on the  
14 Bible and raise your right hand as much as you can. Do you  
15 swear or affirm that the testimony you give will be the  
16 truth, the whole truth, and nothing but the truth, so help  
17 you God?

18 THE APPLICANT: Yes, ma'am.

19 THE CLERK: Thank you.

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

21 THE COURT: Yes, sir.

22 CHRISTOPHER COOPER, being  
23 first duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. WALLER:

CHRISTOPHER COOPER - DIRECT BY MR. WALLER

- 1 Q: Good morning, Mr. Cooper. How are you today?
- 2 A: Good morning. I'm doing good.
- 3 Q: All right. Mr. Cooper, I want to take you back to when  
4 you first got arrested on these charges. Do you remember  
5 that?
- 6 A: Yes, sir.
- 7 Q: Okay. What charges were you arrested for?
- 8 A: Credit card fraud, receiving stolen goods, burglary  
9 first degree, and possession of a firearm.
- 10 Q: Okay. Now, were all of those charges from the same  
11 incident or the alleged same incident?
- 12 A: No, sir.
- 13 Q: Okay. Which ones were from the burglary incident that  
14 you were charged with?
- 15 A: The burglary first and the possession of a firearm.
- 16 Q: Okay. And then you also had a shoplifting charge; is  
17 that right?
- 18 A: Correct.
- 19 Q: And some financial transaction card frauds?
- 20 A: Correct.
- 21 Q: And a receiving stolen goods?
- 22 A: Correct.
- 23 Q: Two receiving stolen goods?
- 24 A: Yes, sir.
- 25 Q: Okay. Were you arrested at the same time for all of

## CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 those?

2 A: No, sir.

3 Q: Okay. Which came first?

4 A: The credit card fraud.

5 Q: Okay. So you had already been arrested on that?

6 A: Yes, sir.

7 Q: And made bond?

8 A: Yes, sir.

9 Q: Okay. And then you got arrested on the burglary

10 charges?

11 A: Right.

12 Q: Okay. Did you have the same attorney for all of that?

13 A: At first, I did.

14 Q: At first, you did not?

15 A: Yes, sir. At first, I did.

16 Q: Okay. At first you did? All right. Who did you have

17 for everything?

18 A: Hank Anderson.

19 Q: Okay. And what was Mr. Anderson's representation on?

20 Was it limited to bond settings or --

21 A: At first, it was just for the bond hearing for the

22 first-degree burglary.

23 Q: Okay.

24 A: Then my family went ahead and hired him for the whole

25 case.

CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 Q: Okay. So you didn't have anybody for the financial  
2 transaction cards?

3 A: No, sir.

4 Q: Okay. You were arrested, went through the bond process,  
5 made bond, and hadn't had an opportunity to get that  
6 straightened out yet?

7 A: Correct.

8 Q: Okay. So you hired Mr. Anderson. So you said Mr.  
9 Anderson represented you at bond setting. Were you granted a  
10 bond or were you denied bond?

11 A: When I went in for bond hearing, it was Judge Brown, and  
12 the question he asked me was -- well, at first, he said what  
13 was I there for and I told him, you know, I had credit card  
14 fraud. He read off everything. And also, he said, well,  
15 today you're here for a bond hearing and he set the bond at  
16 --

17 MS. MCCALLISTER: Your Honor, just I'm going to object  
18 to the hearsay about what was said in the hearing. I think  
19 he can answer Mr. Waller's question, but not hearsay.

20 MR. WALLER: Let me --

21 THE COURT: Sustained.

22 MR. WALLER: Let me rephrase that question.

23 BY MR. WALLER:

24 Q: So you hired Mr. Anderson to represent you at bond  
25 setting; right?

CHRISTOPHER COOPER - DIRECT BY MR. WALLER

- 1 A: Right.
- 2 Q: And when you went to that bond setting in front of Judge  
3 Brown, did Judge Brown -- don't tell me what he said. Did he  
4 give you a bond? Did he say for X number of dollars you can  
5 --
- 6 A: He gave me a bond for \$80,000, but then they asked was I  
7 cooperative with the investigator. The investigator had no  
8 words to say I was cooperative. So he said on second thought  
9 I'm going to deny bond.
- 10 Q: Okay. So you were denied bond?
- 11 A: Right.
- 12 Q: Okay. After that, did Mr. Anderson continue to  
13 represent you?
- 14 A: Yes, sir.
- 15 Q: Okay. How long?
- 16 A: He came -- he came -- every time he came to see me,  
17 like, it wasn't, like, he wasn't going to be there. You  
18 know, he came to see someone else. I had to ask to see him.  
19 You know, he never came to see me.
- 20 Q: Okay. So he was -- he was visiting other people in the  
21 detention center?
- 22 A: Right.
- 23 Q: Okay. And he -- he wasn't coming to see you?
- 24 A: No, he wasn't.
- 25 Q: But you were able to grab him?

CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 A: I had to knock on the door and every time I really  
2 talked to him, I asked him what was I looking at. He kept  
3 telling me I'm facing time served or probation.

4 Q: Okay. At some point, Mr. Anderson wasn't your lawyer  
5 anymore?

6 A: Right.

7 Q: Is that right? All right. So who was -- who was your  
8 next lawyer?

9 A: Marshall Weaver.

10 Q: Okay. And how did you get -- how did Mr. Weaver come to  
11 represent you?

12 A: Well, I saw him walking in the hallway one day and I  
13 asked him how much would he charge for my case. He told me  
14 and I said what would be the bond -- how much for a bond. He  
15 told me also.

16 Q: Okay.

17 A: And he told me -- he said, well, by law, he's not  
18 supposed to be talking to me right now because I'm  
19 represented by Mr. Hank Anderson.

20 Q: Okay.

21 A: So I had to go through the process of relieving Mr.  
22 Anderson.

23 Q: Okay.

24 A: And so when I went to the court, I relieved Anderson  
25 from the judge and so after that they appointed me to a

CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 public defender with Scott Floyd. Scott Floyd told me he  
2 can't represent me because my co-defendant is represented by  
3 someone in his office.

4 Q: The Public Defender's Office represented --

5 A: My co-defendant.

6 Q: You and a co-defendant?

7 A: Right.

8 Q: Okay.

9 A: So he gave me three names and the only name I recognized  
10 was Marshall Weaver.

11 Q: Okay.

12 A: And so that's how that came to point.

13 Q: So did you hire Mr. Weaver or was he appointed?

14 A: He was appointed through --

15 Q: His affiliation?

16 A: -- pro bono.

17 Q: Okay. All right. When you and Mr. Weaver were first  
18 able to meet, what did y'all talk about?

19 A: Basically, just the case, you know, what I'm looking at,  
20 everything, you know, about the number that I was facing.

21 Q: Okay. Now, if you can, tell the judge so he understands  
22 what the State alleged took place?

23 A: Well, my biggest thing was, you know, like, I just felt  
24 like I never had no one best interest at heart, you know,  
25 through neither lawyer, you know, because it's, like, it was

CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 designed to lose. I mean when I asked Mr. Weaver, you know,  
2 like, would it be able to go down with this charge, you know,  
3 his words was I don't think John Jepertinger will go down off  
4 this 13 because it's going to make Hank look like an ass, you  
5 know. So what am I supposed to -- I ain't know what to do.  
6 You know, it was like I never had no one in my -- in my  
7 corner from -- from the get-go.

8 Q: Okay. Let me ask it this way. And the judge has a copy  
9 of the transcript; so he's aware of this. The State alleged  
10 that you and a co-defendant broke into a house?

11 A: Right.

12 Q: Is that right?

13 A: Yes, sir.

14 Q: And someone came up to the house and found it -- or  
15 found y'all in there and that y'all ran out and took off?

16 A: Right.

17 Q: Is that right?

18 A: (No verbal response.)

19 Q: Okay. When you and Mr. Weaver met, did you give him  
20 some other information other than what the State had said  
21 happened?

22 A: Right.

23 Q: Okay. What did you tell him?

24 A: I told him, you know, basically I was there, but I had  
25 no intentions of knowing, you know, that was going to happen.

## CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 Q: Okay. You told him you didn't know what was going to  
2 happen?

3 A: I mean -- I mean I -- let me -- I mean I correct this,  
4 you know. It's, like, when I asked Mr. Weaver, you know,  
5 like, I was, like, I didn't break into this house. I didn't  
6 go in the house. And I asked him -- I was, like, did you  
7 even read, you know, my motion of discovery, and his words  
8 was I haven't read it yet, but I will read it tonight after I  
9 watch the finals. You know, so I'm, like, this can't be  
10 serious, you know, what am I supposed to do, you know, and so  
11 in my mind, I'm, like, I can't do nothing. I'm sitting in  
12 the county 18 months already with no bond.

13 Q: Okay. Let's talk a little bit about the incident and  
14 what -- what you told Mr. Weaver. All right. So the State  
15 alleged that you and another individual were in a car?

16 A: Right.

17 Q: All right. But when you talked to Mr. Weaver about who  
18 all was in the car, where were you in the car?

19 A: In the driver's seat.

20 Q: You were in the driver's seat? All right. And your co-  
21 defendant was in the passenger seat?

22 A: Right.

23 Q: In the front passenger seat next to you?

24 A: Right.

25 Q: All right. Did you tell Mr. Weaver anybody else was in

## CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 the car?

2 A: No. They wasn't in the car. It was two other white  
3 guys who met him there.

4 Q: Met your co-defendant there?

5 A: Right.

6 Q: Okay. What did you think you were going to that house  
7 for?

8 A: My intention was that we was going -- he was going there  
9 to help them move some guns from his uncle. Supposedly, the  
10 guys knew that man who stayed there, you know. I didn't even  
11 know those guys, those two white guys, you know. I ain't  
12 know them.

13 Q: Okay. So you and your co-defendant pull up to this  
14 house and two guys are sitting there waiting on y'all?

15 A: No. They wasn't there waiting. They met him down the  
16 street. They walked down the street from --

17 Q: Okay.

18 A: -- where they parked at, you know.

19 Q: So two other guys met you there?

20 A: Right.

21 Q: Okay. And you thought your co-defendant was going to  
22 someone that he knew's house to get some guns?

23 A: Right. Move them out the house.

24 Q: Okay. You thought that the people he was meeting were  
25 the people that had the house?

## CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 A: Right.

2 Q: Okay. When you got to the house -- and you told Mr.

3 Weaver this?

4 A: (No verbal response.)

5 Q: Is that a yes?

6 A: Yes.

7 Q: Okay. When you got to the house, did you go inside?

8 A: No, sir.

9 Q: Okay. At first, you didn't go inside?

10 A: I didn't go inside at all.

11 Q: Okay. All right. You told Mr. Weaver that?

12 A: Right.

13 Q: Okay. At some point, did you get out of the car?

14 A: Well, when I was sitting there, you know, like I told

15 him, like, at the time of day it was 11 in the morning, you

16 know, raining, you know, and I'm just sitting in this big

17 neighborhood under the carport, you know, and I'm, like,

18 something just doesn't seem right. So as I get out the car,

19 I go around to the back of the house and I see the back door

20 was kicked in.

21 And so my co-defendant -- I'm yelling his name. I yell,

22 Justin, Justin. I'm not hearing nothing. And so I'm

23 standing there by the porch and I'm -- like, I'm still

24 screaming his name. So I look and he came out the house and

25 he came -- when he ran down the steps, he said I left my gun

CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 in there. I said, man, I'm gone. What you mean you left a  
2 gun?

3 So as he ran back up the steps, he said somebody in  
4 there. The guy saw him. He jumped off the porch. He hit my  
5 head and my hat fell in the yard, like I explained to them,  
6 you know, that's my hat. I never knew anything about no  
7 intentions of -- you know, I didn't break in no house or  
8 nothing. I never went in there or anything.

9 Q: Okay. So you walk up to the house to see what's going  
10 on?

11 A: Yes, sir.

12 Q: And your co-defendant comes running out or jumped off  
13 the porch and kind of landed on you?

14 A: Yes, sir.

15 Q: And that's how your hat got knocked off?

16 A: He didn't land on me. Like, when he jumped down, he was  
17 trying to, like, push me out of the way so he could run.

18 Q: Okay.

19 A: So he hit my hat.

20 Q: Okay. And you're saying someone -- someone else was in  
21 the house?

22 A: Yes.

23 Q: And saw him?

24 A: Yes, sir.

25 Q: Okay. And that's how your hat got knocked off and left

CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 at the scene?

2 A: Yes, sir.

3 Q: And that's how law enforcement got your DNA?

4 A: Yes, sir.

5 Q: Okay. Did you tell Mr. Weaver all of that?

6 A: Yes, sir.

7 Q: Okay. Did y'all ever have any discussions about intent,  
8 criminal intent, and what the State would have to prove?

9 A: I mean when you say intent?

10 Q: Did you and Mr. Weaver ever discuss that for a person to  
11 be convicted of a burglary there has to be a criminal intent?

12 A: We talked basics on things, but my understanding, like,  
13 I'm thinking, like, to commit burglary, it was to enter a  
14 dwelling, you know. That was my biggest thing. I said I  
15 never went inside the house. I didn't even know that was  
16 going to happen. I had no intentions of knowing that was  
17 going to happen.

18 Q: Okay. Did you all ever talk about -- two things. First  
19 of all, did y'all ever talk about the hand of one/hand of  
20 all?

21 A: No, sir.

22 Q: Okay. Did y'all ever talk about elements of burglary?  
23 You mentioned one, which is the entering into a dwelling.  
24 Did y'all talk about the second one, which is with the intent  
25 to commit a crime?

CHRISTOPHER COOPER - DIRECT BY MR. WALLER

- 1 A: No, sir.
- 2 Q: Okay. So you thought that burglary just meant entering  
3 into a dwelling?
- 4 A: Right.
- 5 Q: Any dwelling that -- that's it?
- 6 A: If you are in there, if you break in someone's house,  
7 that's burglary.
- 8 Q: Okay.
- 9 A: We never talked about if I'm there and I didn't -- if I  
10 know that was going to happen, you know. If I know or didn't  
11 know what was going to happen.
- 12 Q: Okay. Did y'all ever talk about what's called mere  
13 presence?
- 14 A: Mere presence?
- 15 Q: Yes, sir. Mere presence. Did y'all ever talk about the  
16 legal theory of mere presence?
- 17 A: Which is being there?
- 18 Q: Just being there but not participating.
- 19 A: No, sir.
- 20 Q: You never talked about that?
- 21 A: No, sir.
- 22 Q: All right. When you went to your guilty plea, did you  
23 think you had any defenses in this case?
- 24 A: No, sir.
- 25 Q: Okay. Now, after you have done some research, do you

CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 think you had some defenses to that case?

2 A: No, sir.

3 Q: You don't think you had any defenses?

4 A: None.

5 Q: Now you don't think you have any defenses?

6 A: As being --

7 MS. MCCALLISTER: Your Honor, he's asked -- asked that  
8 question and he's answered it.

9 THE COURT: Twice.

10 MR. WALLER: All right. I apologize, Your Honor. I'll  
11 move on.

12 THE COURT: That's all right. That's okay.

13 BY MR. WALLER:

14 Q: Mr. Cooper, did you ever discuss with Mr. Weaver about  
15 going to trial?

16 A: Yes, sir.

17 Q: Okay. What did you tell him?

18 A: That, in fact, that I wasn't in that house. And he told  
19 me that his biggest thing was, like, he's saying, like, the  
20 father said he saw me, and I kept telling him that's  
21 impossible because, you know, he couldn't have seen me. I  
22 wasn't -- you know, I didn't go in there.

23 Then he said me and his defense would have been, like,  
24 you know, he'd have asked the father how good is your vision,  
25 you know, can you show it was my client, you know, can you

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1 show us him, you know. It just wasn't never like, you know,  
2 no strong defense.

3 And then I'm thinking, you know, if I go to trial, you  
4 know, his biggest thing was saying if you go to trial,  
5 they're going to burn you, but I'm feeling like I could --  
6 you know, I could have beat it then, you know, as my mom --  
7 she really talked to me. You know, she say I'm telling you,  
8 you know, don't go to trial because you never know what can  
9 happen there, you know. They can paint a picture. You know,  
10 I'd rather you go up the road, you know, and fight your case,  
11 you know, learn from things and come back.

12 But, you know, as far as, like, just me going to trial,  
13 I feel like I would never had a chance in trial because I  
14 already know, like, me dealing with him, talking to him, you  
15 know, about my case, it was never a fighting chance.

16 Q: So you don't think you would have had a chance at trial  
17 with Mr. Weaver as your attorney because he -- you didn't  
18 feel comfortable with him?

19 A: That's correct.

20 Q: Okay. All right. Mr. Cooper, I've asked you all the  
21 questions that I have. Is there anything else that you think  
22 the judge needs to be aware of of Mr. Weaver's representation  
23 of you?

24 A: I mean it's not -- it's not just on Mr. Weaver because,  
25 you know, like, it started from when it was Mr. Anderson.

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1 Mr. Hank Anderson is what it all started from, you know, as  
2 me just sitting in county, you know, a period of 531 days.  
3 Sorry, 513 days.

4 And, like, my biggest argument since sitting in there,  
5 you know, I know you have rights and, you know, you can't --  
6 like I told him from the get-go, just because you haven't  
7 mocked on me, you have a voice, you know. You use your  
8 lawyer as your voice.

9 And the whole time I'm sitting there with no bond and  
10 every time I go up for this bond, whoever it was, they kept  
11 telling me they're waiting on DNA analysis, you know, and my  
12 biggest thing was, like, Mr. Weaver, when I went up for my  
13 last time, he told Mr. Jepertinger who is to say, you know,  
14 you're going to get DNA. And I feel like they held me in  
15 there on their own power because they went in the evidence  
16 room and got the hat that was left at the scene, which I  
17 already told them that was my hat, just to say they have DNA.

18 Once Judge Brown gave them 90 days to get DNA, you know,  
19 they gave them 90 days to get DNA. Once they figured out I  
20 would have had a bond, it was, like, now -- I mean 18 months  
21 you couldn't get DNA, but now that they give you 90 days, now  
22 you say here's DNA. You know, it's like they held me in  
23 there for so long, me fighting this with no bond, and I'm,  
24 like, I ain't understand that part.

25 Q: So you told them it was your hat all along?

## CHRISTOPHER COOPER - DIRECT BY MR. WALLER

1 A: All along.

2 Q: Okay. So there wasn't any reason to do any DNA testing  
3 on that hat?

4 A: Right.

5 Q: Okay. Because it was yours?

6 A: Yes, sir.

7 Q: Your DNA was obviously going to come back on it?

8 A: Yes, sir.

9 Q: Okay.

10 MR. WALLER: I have nothing further for you. Please  
11 answer any questions Ms. McCallister has.

12 THE COURT: Ms. McCallister, ma'am?

13 MS. MCCALLISTER: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. MCCALLISTER:

16 Q: Mr. Cooper, how long was it before you entered this  
17 guilty plea that Mr. Weaver became your attorney?

18 A: I don't understand the question.

19 Q: How -- I mean was it six months before you ended up  
20 pleading guilty? Was it a year before you ended up? How  
21 long was he representing you before you went into the  
22 courtroom that day?

23 A: A month, a month and a half.

24 Q: A month and a half? Okay. And how many times in that  
25 period of time did y'all meet together and talk?

CHRISTOPHER COOPER - CROSS BY MS. MCCALLISTER

1 A: Three times.

2 Q: And in those three meetings, you told him all of this  
3 stuff that you just went over with your attorney? You told  
4 him this story that you were just in the car, you went around  
5 to the back, and you didn't actually go into the house; is  
6 that right?

7 A: Yes, ma'am.

8 Q: Okay. And did y'all -- and your -- your testimony just  
9 a minute ago was that Mr. Weaver didn't discuss with you how  
10 you could still be found guilty under the hand of one/hand of  
11 all concept?

12 A: Not until the day I went to -- when I plead -- I plead  
13 guilty.

14 Q: Okay. So he did discuss it with you on the day of the  
15 plea?

16 A: Before I -- I mean not until, like, when we was standing  
17 up. After -- after the fact when they went up to -- this is  
18 what it was. When I was standing in front of the judge,  
19 Judge Brown asked me did I go in the house. I said, no, Your  
20 Honor. He sat back and said I can't accept this plea.  
21 That's when he said permission to approach counsel. They  
22 discussed it up there, you know.

23 As I read my transcript, what was said, he came back and  
24 told me, you know, this is a hands of one/hands of all state.  
25 That's when I knew about it then. But still understanding

CHRISTOPHER COOPER - CROSS BY MS. MCCALLISTER

1 it, I didn't know about it until I went up the road and  
2 learned in the law library about it.

3 Q: Okay. But do you agree with me that at the plea that  
4 day you did tell Judge Brown that you understood what the  
5 hand of one/hand of all meant?

6 A: Yes, ma'am.

7 Q: Okay. And you -- at your plea, you admitted that you  
8 were there? You said you were there?

9 A: Yes, ma'am.

10 Q: But you didn't go in the house; right?

11 A: Yes.

12 Q: And you told the judge that you knew what was going on,  
13 you knew that they went to that house to rob it?

14 A: No, I never said that.

15 Q: You didn't say that? So if I showed you the transcript,  
16 would that refresh your memory?

17 A: I said I knew they were going there to rob it?

18 Q: That you knew what was going on when you went to that  
19 house. You don't recall telling the judge that?

20 A: I never said I knew they was going to rob no house  
21 though.

22 MS. MCCALLISTER: Your Honor, may I approach this  
23 witness?

24 THE COURT: Yes, ma'am.

25 BY MS. MCCALLISTER:

CHRISTOPHER COOPER - CROSS BY MS. MCCALLISTER

- 1 Q: Could you read for me on the bottom of page 20?
- 2 A: Mr. Cooper, do you understand that even if you have --
- 3 if you deny having gone in the house, you admit you were
- 4 there?
- 5 Yes, sir.
- 6 You admit you knew what was going on? Either you do or
- 7 you don't.
- 8 Yes, sir.
- 9 Q: Okay.
- 10 A: He said you do or you don't.
- 11 Q: Right.
- 12 A: I didn't.
- 13 Q: He asked you you admit you knew what was going on,
- 14 either you do or you don't, and you answered, yes, sir?
- 15 A: Yes, sir. I didn't know.
- 16 Q: Okay.
- 17 A: He said you do or you don't.
- 18 Q: Okay. But -- okay. I'll move on. And do you recall at
- 19 the plea hearing the judge asked you if you were satisfied
- 20 with Mr. Weaver and the representation that he had provided
- 21 for you? Do you recall that?
- 22 A: Yes, ma'am.
- 23 Q: And do you recall what you told the judge?
- 24 A: I said, yes, ma'am.
- 25 Q: Okay. So you told the judge at the time you were happy

CHRISTOPHER COOPER - CROSS BY MS. MCCALLISTER

1 with Mr. Weaver and he had done everything you had asked him  
2 to do?

3 A: I mean I feel like there was nothing else to be done  
4 because just, like, I was -- I never had a chance. I mean  
5 what else could I do?

6 Q: But you had a chance to tell the judge whatever you  
7 wanted to about Mr. Weaver at that point and you chose to  
8 tell him you were satisfied?

9 A: I had a chance, but as of me and him were talking in the  
10 back, when we were talking in the back, he told me whether --  
11 whether I say tonight -- today it didn't matter to the judge  
12 though, you know.

13 Q: Okay.

14 A: So what was I supposed to do in that situation?

15 Q: Okay.

16 MS. MCCALLISTER: Thank you, Your Honor. That's all I  
17 have.

18 THE COURT: Mr. Waller?

19 MR. WALLER: Very briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. WALLER:

22 Q: Mr. Cooper, you just testified that you were -- you told  
23 the judge you were satisfied with Mr. Weaver at the time?

24 A: (No verbal response.)

25 Q: Is that a yes?

CHRISTOPHER COOPER - REDIRECT BY MR. WALLER

1 A: Yes, sir.

2 Q: Okay. Is that still the case now that you've done some  
3 research and know a little bit more?

4 A: Yes, sir.

5 MR. WALLER: Nothing further, Your Honor.

6 THE COURT: Ms. McCallister?

7 MS. MCCALLISTER: No, Your Honor.

8 THE COURT: Thank you, sir. Mr. Cooper, thank you.

9 MR. WALLER: Nothing further from the applicant, Your  
10 Honor.

11 THE COURT: Ms. McCallister?

12 MS. MCCALLISTER: Your Honor, the State calls Marshall  
13 Weaver.

14 THE COURT: Okay.

15 THE CLERK: Place your left hand on the Bible and raise  
16 your right hand. Do you swear or affirm that the testimony  
17 you give will be the truth, the whole truth, and nothing but  
18 the truth, so help you God?

19 THE WITNESS: I do.

20 MARSHALL WEAVER, being first duly  
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. MCCALLISTER:

24 Q: Good morning, Mr. Weaver. Could you explain just  
25 briefly how you came to be involved in this case?

MARSHALL WEAVER - DIRECT BY MS. MCCALLISTER

1 A: Yes. Mr. Cooper was prior -- prior to me, Mr. Cooper  
2 was being represented by Attorney Hank Anderson. I received  
3 a phone call saying that I was going to be receiving a case  
4 on Mr. Cooper. After that, I received an order appointing me  
5 to represent him. I found out later on that he had asked  
6 that he -- that Mr. -- that Hank Anderson be taken off of his  
7 case and he be appointed another attorney.

8 Q: Okay. And how far before the date of this plea in June  
9 of 2017 was that where you were put on this case?

10 A: I got on the case March 30<sup>th</sup>.

11 Q: Okay.

12 A: 2017.

13 Q: And what -- generally, what is your -- what is your  
14 practice? Do you practice mostly criminal law or what's your  
15 breakdown?

16 A: I do -- I do around 30 percent criminal law, I would say  
17 60 percent personal injury, and about 10 percent Social  
18 Security disability.

19 Q: Okay. And how long have you been practicing?

20 A: Nine years.

21 Q: And has this been the same breakdown over this course of  
22 the nine years?

23 A: Yes.

24 Q: Okay. Had you handled a case on appointment before?

25 A: Yes. Numerous.

MARSHALL WEAVER - DIRECT BY MS. MCCALLISTER

1 Q: Okay. And when you got the case from Mr. Cooper, do you  
2 recall in those -- I guess that would be approximately two  
3 months or so, three months that you had the case, how many  
4 times did you meet with Mr. Cooper?

5 A: I met with him three times.

6 Q: Okay. And do you recall what you discussed at those  
7 meetings?

8 A: Correction. I met with him three times at the jail and  
9 then I met with him extensively also the day of the plea  
10 before -- before the plea took place. And yes, I do recall  
11 the dates of the meetings, the times of the meetings, and  
12 what was discussed.

13 Q: Okay. Can you tell me what was the first time you met  
14 with him?

15 A: On April 5<sup>th</sup>, 2017, at 1:40.

16 Q: Okay. And how long was that meeting? Do you remember?

17 A: I don't have the end time, but I have the beginning  
18 time.

19 Q: Okay. Do you recall what you discussed at that meeting?

20 A: Yes. At that meeting, we spoke in depth about the case.  
21 I reviewed his -- I reviewed the investigative report with  
22 him, and we spoke about the identification which was made at  
23 the scene of the crime by one of the victims.

24 And we also discussed about -- we also discussed that  
25 the vehicle, the car, was identified and the license plate

MARSHALL WEAVER - DIRECT BY MS. MCCALLISTER

1 was identified and the fact that that license plate went back  
2 to his girlfriend. And we also talked about the photo lineup  
3 which was the eyewitness identification as well.

4 Q: Okay. And I guess maybe we should pause here first, I  
5 guess. So the evidence that the State had against your  
6 client was the photo lineup that you mentioned by the -- by  
7 the eyewitness, the DNA on the hat, this vehicle was IDed as  
8 his girlfriend's car; is that right?

9 A: Yes.

10 Q: The license plate number?

11 A: Yes.

12 Q: Okay. And then was there anything else?

13 A: Yes. And also, when they went to the girlfriend's home,  
14 they found several items that were stolen from the residence  
15 inside the home. I believe the items were a 9 millimeter  
16 handgun and an iPod as well.

17 The vehicle which had her license plate, what made that  
18 so damaging is that they got a statement from her in which  
19 she stated that he dropped her off to work that day and that  
20 he had the vehicle for that whole day, which means that he  
21 had possession of the vehicle. And the eyewitness -- the  
22 eyewitness also was a problem as well with the photo lineup.

23 Q: Okay. And so the eyewitness positively IDed or picked  
24 him out of a lineup; is that correct?

25 A: Yes.

MARSHALL WEAVER - DIRECT BY MS. MCCALLISTER

1 Q: Okay. As -- as one of the people who was in the house;  
2 is that right?

3 A: Yes.

4 Q: Okay. And did you -- okay. So that was April 5<sup>th</sup>. You  
5 talked about all of that on April 5<sup>th</sup>; is that fair?

6 A: That's correct.

7 Q: Okay. And then when was your next meeting with him?

8 A: June 7<sup>th</sup>, 2017, from 3:10 to 4:15.

9 Q: Okay. And what did you talk about in that meeting?

10 A: At that meeting, we discussed the DNA and informed him  
11 that it was found, that his DNA had been found in the cap.  
12 And we talked about his options on going to trial at that  
13 point, and it was at that meeting that we did discuss the  
14 hands of one/hands of all.

15 Q: Okay. And when you discussed hands of one/hands of all,  
16 did you feel like Mr. Cooper understood what you were  
17 explaining to him?

18 A: Yes, I did.

19 Q: Did you feel like he understood how that information  
20 impacted his case and his decisions?

21 A: I felt that he understood.

22 Q: Okay.

23 A: It was -- part of my job was to try to make him  
24 understand. He kept going -- he kept going back to, well, if  
25 I didn't go in the house, why am I getting the same amount of

MARSHALL WEAVER - DIRECT BY MS. MCCALLISTER

1 time that they're getting, and that -- he was really hung up  
2 on that. If I didn't go in, why am I getting the same amount  
3 of time?

4 And from that meeting, I explained hands of one/hands of  
5 all. I explained it and I don't know if he -- I don't know  
6 if he truly understood it or not because he asked me over and  
7 over again during that meeting.

8 And then on the day that he actually entered the plea,  
9 that was -- on that day, I know that he fully understood it.  
10 And just to reinforce it, the judge also explained it as  
11 well, I believe, on the record.

12 Q: Okay. So you explained it and the judge explained it,  
13 and by the day of the plea when he was actually entering it,  
14 you believed he understood the concept?

15 A: Certainly.

16 Q: Okay. If you -- if you had felt he didn't understand  
17 the concept, what would you have done?

18 A: I would have had to ask the judge for more time to give  
19 him more counsel. The case wasn't set to go to trial that  
20 particular -- that particular day, but he was there in case  
21 he wanted to plead. So I would've had to have more time to  
22 counsel him on it and he would have more time to make an  
23 informed decision prior to going to trial.

24 Q: Okay. That was your second meeting. What about your  
25 third meeting?

MARSHALL WEAVER - DIRECT BY MS. MCCALLISTER

- 1 A: The third meeting was June 9<sup>th</sup>, 2017, which was two days  
2 later.
- 3 Q: Okay.
- 4 A: During that meeting, I reviewed all the elements of his  
5 defenses. I discussed all the discovery. I discussed again  
6 the eyewitness and how that eyewitness hurts us. I discussed  
7 the DNA and how the DNA hurt us. I discussed how having that  
8 merchandise inside the residence hurt us. I also talked with  
9 him about the difference between violent and non-violent  
10 crimes, and I discussed the plea.
- 11 Q: Okay. You said you reviewed all the elements of the  
12 crime with him. Would that include the intent element of the  
13 crime?
- 14 A: Yes, it does.
- 15 Q: Okay. And you felt he understood that?
- 16 A: Yes, I did.
- 17 Q: And you felt that based on the State's case that they  
18 could prove the intent element of this crime?
- 19 A: Yes, I did.
- 20 Q: Okay. Okay. And that was June 9<sup>th</sup>, and then you said  
21 you also talked to him extensively before the plea?
- 22 A: Yes.
- 23 Q: Okay. So when you say extensively, is that an hour?  
24 Two hours?
- 25 A: If I'm not mistaken -- I did not write down that day

MARSHALL WEAVER - DIRECT BY MS. MCCALLISTER

1 because that day we were in court. If I'm not mistaken, I  
2 would -- I would gauge it somewhere between 30 to 45 minutes,  
3 and I even believe at some point -- at some point, I think  
4 the assistant solicitor -- he requested to speak with the  
5 assistant solicitor as well and requested that he come down  
6 on his offer, and the assistant solicitor came in and told  
7 him, no, that he was not going to reduce it because I would  
8 -- I told him that he wouldn't reduce it and what I said  
9 wasn't good enough. He had to hear it from the horse's  
10 mouth.

11 Q: Okay. And he was able to do that?

12 A: Yes.

13 Q: Okay. When Mr. Cooper went into the courtroom and  
14 accepted this plea, it was a negotiated plea; correct?

15 A: That's correct.

16 Q: Negotiated to 13 years?

17 A: That's correct.

18 Q: Did you explain to Mr. Cooper what that meant in terms  
19 of the difference between a negotiated plea and a regular  
20 plea?

21 A: I did explain it to him.

22 Q: Okay.

23 A: I explained it to him and the judge explained it to him  
24 as well on the record.

25 Q: Okay. And did you feel that he understood that?

## MARSHALL WEAVER - DIRECT BY MS. MCCALLISTER

1 A: Yes.

2 Q: Okay. And when he went in there to take the plea, whose  
3 decision was it for him to plead guilty?

4 A: It was his decision.

5 Q: Okay. And y'all had talked about that multiple times;  
6 correct?

7 A: Yes.

8 Q: Okay. If he had chosen to go to trial, did you feel  
9 there was any kind of defense that you could use?

10 A: I did think that we had something with the hat --

11 Q: Okay.

12 A: -- because the hat had two other individuals' DNA inside  
13 the hat, but the problem -- the problem with that would be  
14 the eyewitness saying that he saw the hat on his head and he  
15 dropped the hat.

16 So even though I did think we had -- we had a defense  
17 there and, of course, he -- he also stated to me that the  
18 eyewitness did not see him and I explained to him that that  
19 would be something that I could try to flush out on cross-  
20 examination of the eyewitness and see if I could impeach him.  
21 However, with the hat and the eyewitness, I felt that the  
22 evidence -- I thought that a jury could very well convict  
23 him.

24 Q: Okay. And so you explained to him these potential ways  
25 that you could poke some holes in the State's case?

## MARSHALL WEAVER - DIRECT BY MS. MCCALLISTER

1 A: Yes, I did.

2 Q: Y'all had discussions about a possible defense that you  
3 could put up?

4 A: Yes, I did.

5 Q: Okay. And you felt he understood those discussions?

6 A: Yes.

7 Q: Did you feel he understood what his option was to go to  
8 trial if he chose to?

9 A: Yes.

10 Q: And were you prepared to take this case to trial?

11 A: Yes.

12 Q: Okay.

13 MS. MCCALLISTER: I beg the Court's indulgence for a  
14 moment.

15 THE COURT: Yes, ma'am.

16 BY MS. MCCALLISTER:

17 Q: So you heard Mr. Cooper's testimony earlier about this  
18 issue of him telling the judge that he understood what was  
19 going on when they went to the house. Did you discuss that  
20 with him as well?

21 A: I'm sorry. Can you elaborate a little?

22 Q: Mr. Cooper, I think, today has testified that he thought  
23 they were just going to the house to move some guns for  
24 somebody that his friend knew. So he thought that he knew  
25 these people?

## MARSHALL WEAVER - DIRECT BY MS. MCCALLISTER

1 A: Yes.

2 Q: Did you -- did you discuss that with him?

3 A: Yes. And as I recall, initially -- initially, that is  
4 what he -- what he said.

5 Q: Okay.

6 A: Then the evidence that was -- that was being presented,  
7 as the evidence was presented, that's when the story changed  
8 from that to why do I have to get as much time as he's  
9 getting when I didn't go in the house. And by the time -- by  
10 the time the plea came up, the initial defense that he gave  
11 me wasn't even being discussed anymore because he had  
12 completely transferred that to I just don't see why I'm  
13 getting as much time as they are when I didn't go in.

14 Q: Okay. So he did tell you this initially and did you --  
15 did you work with that as a defense?

16 A: Yes.

17 Q: Okay.

18 A: Yes, I did.

19 Q: Until -- and then you're saying that he changed his  
20 story and he kind of admitted that wasn't true?

21 A: Yes. As I confronted him -- as we went through the  
22 discovery and he was confronted with the evidence itself, the  
23 fact that the -- that the evidence -- that the stolen items  
24 were found at the residence, the fact that -- that the  
25 vehicle itself was actually backed up to the back door and

MARSHALL WEAVER - DIRECT BY MS. MCCALLISTER

1 things of that nature, he eventually switched to why am I  
2 getting as much time as they are when I didn't go in.

3 Q: Okay. So on the day of the plea, he wasn't maintaining  
4 to you that he thought -- he wasn't maintaining the story  
5 about, oh, I thought my friend knew these people?

6 A: Not at all.

7 Q: Okay. So on the day of the plea, he -- did you feel  
8 like he was admitting that he knew what was going on in that  
9 house?

10 A: Yes.

11 Q: And he had admitted that to you?

12 A: Yes.

13 Q: And that was your understanding of why he was -- part of  
14 why he was pleading to this; is that right?

15 A: Yes.

16 Q: Okay.

17 A: Definitely.

18 Q: Because that defense had evaporated?

19 A: Yes.

20 Q: Okay.

21 MS. MCCALLISTER: I think that's all the questions I  
22 have. Thank you.

23 THE COURT: Mr. Waller?

24 MR. WALLER: Thank you, Your Honor.

25 CROSS-EXAMINATION

## MARSHALL WEAVER - CROSS BY MR. WALLER

1 BY MR. WALLER:

2 Q: Good morning, Mr. Weaver. How are you?

3 A: Good morning. I'm doing well. I hope you are too.

4 Q: Thank you, sir. Mr. Weaver, you just testified that at

5 some point Mr. Cooper stopped talking about a defense or his

6 initial story and started focusing more on the time aspect of

7 everything; is that right?

8 A: On the -- on the sentencing, yes.

9 Q: Yes, sir.

10 A: That's correct.

11 Q: That's what I meant.

12 A: Yes. Okay.

13 Q: And that was based on the conversations y'all were

14 having about the discovery?

15 A: That was based on him being confronted -- confronted

16 with the evidence that I -- that I found in the discovery,

17 yes.

18 Q: Okay. And y'all were talking about that?

19 A: Yes.

20 Q: Okay.

21 A: At length.

22 Q: All right. What was the trial date? Was there one set?

23 A: Yes. June 19<sup>th</sup>. It was supposed to go before Judge

24 Seals.

25 Q: All right. So seven days after he pled guilty; is that

## MARSHALL WEAVER - CROSS BY MR. WALLER

- 1 right?
- 2 A: That sounds about right.
- 3 Q: Okay. I see that you have extensive notes about your  
4 meetings with him. Do you have notes about any preparation  
5 that you had done for trial at that point?
- 6 A: No. I don't have any notes about preparation, no.
- 7 Q: What had you done in preparation for trial?
- 8 A: I had reviewed the discovery. We had talked about  
9 possible defenses. I discussed with him the possibility of  
10 attacking the hat. I discussed all the pros and the cons.
- 11 I don't have my computer with me, but I'm pretty certain  
12 that I had started to go through and pick out what witnesses  
13 the State would potentially call and I -- at that point, I  
14 did not have any witnesses that I could call other than Mr.  
15 Cooper.
- 16 Q: Okay. Let me go back to his original -- his version of  
17 the events he gave to you. You discussed that with him?
- 18 A: Yes.
- 19 Q: Okay. Did you discuss the two other individuals he said  
20 were there?
- 21 A: Yes, we did.
- 22 Q: Okay. Did you have any more information other than two,  
23 you know, white males that were -- that walked up? Did you  
24 have anything you could do an investigation on?
- 25 A: I don't recall what his exact description of the two

MARSHALL WEAVER - CROSS BY MR. WALLER

1 individuals were because, as I said -- as I said, as I  
2 confronted him with the evidence, that story completely faded  
3 and disappeared. It was very, very clear to me that -- that  
4 that wasn't a defense at all that he was trying to present.  
5 Once he was presented with the evidence, his -- that story --  
6 that story disappeared.

7 Q: Okay. When y'all were first talking about that story  
8 before you might have received all the evidence and had a  
9 chance to go over it with him or discuss it with him or  
10 confront him with it, as you said, did y'all discuss the  
11 theory of mere presence?

12 A: At some point. I don't know exactly when I discussed it  
13 with him, but at some point, I'm certain I discussed mere  
14 presence.

15 Q: Okay.

16 A: I will say this. I don't recall the exact -- the exact  
17 moment I discussed mere presence, but in my discussion of  
18 hands of one/hands of all, during that discussion I'm certain  
19 mere presence would have come up.

20 Q: Okay. Certainly. Were you ever made aware of any  
21 Facebook messages or other messages from a co-defendant --  
22 from the co-defendant to his family?

23 A: Yes. I certainly were.

24 Q: Okay. What were you made aware of?

25 A: There was -- there was some messages. I think someone

MARSHALL WEAVER - CROSS BY MR. WALLER

1 was inboxed. And one of the co-defendants said if he would  
2 -- if he would do something or someone would do something,  
3 put some money on his books or something, that he would take  
4 the entire -- that he would take over -- he would take the  
5 rap for the -- for the charges. It was something to that --  
6 something to that nature.

7 Q: Okay. Did you ever make follow-up -- follow-up  
8 investigation on that?

9 A: No.

10 Q: Okay.

11 A: If the case would have been called -- if the case would  
12 have been called to trial, then, of course, that person -- I  
13 would have requested that person be present at trial.

14 Q: Okay. And I certainly was trying to ask that the right  
15 way. I certainly wasn't trying to --

16 A: Certainly.

17 Q: -- suggest anything. Investigation is what I meant, I  
18 assure you.

19 A: Sure.

20 MR. WALLER: I beg the Court's indulgence, please.

21 THE COURT: Yes, sir.

22 BY MR. WALLER:

23 Q: Mr. Weaver, you testified, I believe, on direct that  
24 there were -- it was a mixture of three DNA on that hat?

25 A: Yes, that's correct.

MARSHALL WEAVER - CROSS BY MR. WALLER

1 Q: Mr. Cooper never denied wearing that hat, did he?

2 A: No, he didn't.

3 Q: What -- what was the necessity of obtaining the DNA  
4 results from that hat if he had been identified and said he  
5 was wearing it?

6 A: Well, it would have been great if the hat came back and  
7 didn't have his DNA at all, but the fact that it came back  
8 with his DNA, of course, at that point then it's kind of,  
9 well, what was the use in doing it. But if it wouldn't have  
10 had his DNA at all, it could have -- it could have eliminated  
11 him as being one of the individuals in the -- I mean in the  
12 house.

13 Q: But he had already said -- only one of the individuals  
14 went into the house actually; is that right?

15 A: Yes.

16 Q: Because he had already told law enforcement that he was  
17 wearing that hat?

18 A: Yes. However, the eyewitness testified that the  
19 individual who was inside the residence was wearing the hat.

20 Q: Okay.

21 A: Therefore, if the hat would have come back and not had  
22 his DNA on the hat, it could've excluded him as being the  
23 individual that the eyewitness saw.

24 Q: Okay. I know you certainly weren't his attorney for the  
25 entire time. What was -- what was your dealings with the

MARSHALL WEAVER - CROSS BY MR. WALLER

1 Solicitor's Office and, I guess, SLED in trying to see what  
2 the results of that DNA testing were?

3 A: SLED was moving slow. They move slow, but I do feel  
4 that we got it back in time for him to make an informed  
5 decision. But they did -- but they did move slow in getting  
6 -- getting the DNA back to us.

7 Q: Okay.

8 MR. WALLER: Nothing further. Thank you, Mr. Weaver.

9 THE COURT: Ms. McCallister?

10 MS. MCCALLISTER: I don't have any additional questions.  
11 Thank you.

12 THE COURT: You can step down, sir.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: Thank you, Mr. Weaver.

15 Anything else, Ms. McCallister?

16 MS. MCCALLISTER: Your Honor, I'm sorry. I think there  
17 may be an allegation or two in that application that kind of  
18 touched on that I would ask to dismiss. Give me just one  
19 second. I'm sorry, Your Honor.

20 THE COURT: All right, ma'am.

21 MS. MCCALLISTER: Yes. Your Honor, in Mr. Cooper's  
22 application, he has an allegation that there was a Brady  
23 violation because his discovery did not include a chain of  
24 custody for the DNA and that the grand jury process was  
25 unconstitutional. I think there's been no testimony about

1 either of those things, Your Honor, and the State would ask  
2 that those allegations be dismissed.

3 THE COURT: And I did note that, but, Mr. Waller, your  
4 response, sir?

5 MR. WALLER: Your Honor, the State had filed a motion to  
6 dismiss those -- those allegations. Ms. McCallister is  
7 correct that there was no specific testimony.

8 THE COURT: All right. And they are now dismissed or  
9 they are not going to be considered.

10 All right. Mr. Waller, did you want to just -- your  
11 issue -- well, just tell me precisely what your issue is and  
12 then I'll hear from Ms. McCallister.

13 MR. WALLER: Your Honor, I think the crux of the matter  
14 is an ineffective assistance of counsel allegation. Your  
15 Honor, Mr. Cooper testified that while he certainly was  
16 present, he claimed to be only merely present. He claimed he  
17 had no knowledge of what was going to be taking place and  
18 that when he did discover what was actually taking place that  
19 he left.

20 Your Honor, both Mr. Cooper and Mr. Weaver testified  
21 that that was the story. Mr. Weaver testified that he --  
22 that story changed and he started to focus more on what his  
23 sentence would be and, Your Honor, I think that's a natural  
24 progression of being concerned about what, you know, you're  
25 potentially looking at because, you know, he was in a

1 situation where a burglary was taking place.

2 Your Honor, Mr. Cooper testified that he didn't think he  
3 had any defenses. And he actually testified -- and I know  
4 Ms. McCallister objected because I asked him twice, but he  
5 still doesn't think he had any defenses. Your Honor, based  
6 on what the testimony and what I've heard here today, I think  
7 that he may have had a defense to -- to the burglary charge,  
8 and that being that he was merely present, Your Honor. So I  
9 think he had that defense and needed to be made aware of it.

10 Mr. Cooper's testimony was that he was concerned about  
11 how he was getting the same amount of time as his co-  
12 defendants, who were actually committing this robbery, and he  
13 never went in the house. So he doesn't seem to have been  
14 able to wrap his head around -- around that and, Your Honor,  
15 I think it's because he didn't have any intent to ever commit  
16 a burglary.

17 I certainly think that he -- he's able to make decisions  
18 for himself, but he needs to have all the information to be  
19 able to do so. That includes the potential defenses that he  
20 may have to these charges. At that point, then he is to  
21 decide whether he wants to proceed to trial or to plead  
22 guilty.

23 Your Honor, I think he was deprived of that choice. He  
24 testified that he did want to go to trial and was faced with  
25 thinking that Mr. Weaver was unprepared to go to trial. I

1 asked Mr. Weaver if he had any notes about any preparation he  
2 had done because he had such extensive notes and detailed  
3 notes about his meetings with Mr. Cooper and, while I  
4 certainly understand that he may have done preparation, he  
5 didn't have any notes specifically that he could point to.  
6 The trial was set for a week after this plea.

7         So, Your Honor, I would submit to the Court that Mr.  
8 Cooper was deprived of the right to make an informed decision  
9 about whether to plead guilty. That his guilty plea was  
10 involuntarily made because of ineffective assistance of  
11 counsel.

12         THE COURT: Yes, sir.

13         Ms. McCallister?

14         MS. MCCALLISTER: Thank you, Your Honor.

15         Your Honor, I think the record is clear on some of these  
16 issues that Mr. Waller is raising. This issue about mere  
17 presence and hand of one/hand of all, Mr. Weaver testified  
18 they discussed that extensively. I think Mr. Waller asked  
19 him specifically did you discuss mere presence and he said  
20 I'm certain that I did.

21         That they had that discussion and that Mr. Cooper was  
22 aware of that sort of concept in his decision-making, and Mr.  
23 Weaver felt that he understood -- Mr. -- that he being Mr.  
24 Cooper. Mr. Weaver felt Mr. Cooper understood those concepts  
25 on the day of the plea and was entering into the plea freely

1 and voluntarily.

2 Your Honor, on page 20 of the transcript, the Court asks  
3 Mr. Cooper, you know, do you admit that you knew what was  
4 going on, talking about when they were at the house, and the  
5 defendant answers, yes, sir.

6 And he -- on the next page, on page 21, if you were  
7 present, participated in some capacity, knew what was going  
8 on, that you could be convicted underneath the hand of  
9 one/hand of all. Do you understand that? And the defendant  
10 says I didn't then, but it's something I know now.

11 And so I think the record, Your Honor, is clear that Mr.  
12 Cooper was given multiple opportunities to ask questions if  
13 he didn't understand anything. The colloquy with the judge  
14 was very thorough.

15 He had multiple meetings with his attorney where they  
16 discussed all of the evidence in this case. They discussed  
17 possible defenses for trial.

18 Mr. Weaver testified he would've been prepared to go to  
19 trial. He remembers some preparation that he had done with  
20 the discovery. That there were no witnesses really that he  
21 would call other than Mr. Cooper. So trial prep essentially  
22 was reviewing the State's case, the State's discovery.

23 Your Honor, the State's position is that Mr. Cooper made  
24 this decision voluntarily and that Mr. Weaver was very, very  
25 effective counsel for Mr. Cooper.

RULING

1  
2 THE COURT: All right. I too have read and reread the  
3 plea transcript; so I'm not going to recite or reread what  
4 Ms. McCallister just noted here, but I will note that this  
5 was not a plea where it was done hurriedly. There was what I  
6 call a stop and a slowdown with Judge Brown regarding the  
7 questions, especially those on 20 and 21.

8 I find that Mr. Weaver's notes were quite detailed as to  
9 the three meetings with the defendant.

10 His response about trial preparation was what I call  
11 normal. He may not have written those things down, but he  
12 was already formulating a plan, it appears from his  
13 testimony, for trial.

14 And I cite the burden of proof and the two-pronged test  
15 set forth in Section 3 of the return of the State, the  
16 Attorney General's Office.

17 And finally, I note that I serve today also as a  
18 factfinder and I get to assign credibility and believability  
19 where I see fit, and I have done that.

20 And I find that despite the very good efforts of Mr.  
21 Waller that I will rule in favor of the State and not grant  
22 the relief sought.

23 Ms. McCallister.

24 Mr. Waller.

25 MS. MCCALLISTER: Thank you, Your Honor.

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MR. WALLER: Thank you, Your Honor.

(WHEREUPON, the proceedings ended at 11:33 a.m.)

--- END REQUESTED TRANSCRIPT ---

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State of South Carolina )  
 ) Certificate  
County of Florence )

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 51, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of Common Pleas for Florence County, South Carolina, on the 4<sup>th</sup> day of April, 2018.

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

s/Krystal J. Smith

Court Reporter

Florence, South Carolina  
June 13, 2019

STATE OF SOUTH CAROLINA )  
 COUNTY OF FLORENCE )  
 Christopher Cooper, #351838, )  
 Applicant, )  
 v. )  
 State of South Carolina, )  
 Respondent. )

IN THE COURT OF COMMON PLEAS  
 TWELFTH JUDICIAL CIRCUIT

C.A. No. 2017-CP-21-2181

ORDER OF DISMISSAL

DORIS POULOS O'HARA  
 C.C.P. & G.S.  
 FLORENCE COUNTY, SC

2019 JAN 11 AM 10:44

FILED

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Christopher Cooper (Applicant) on August 11, 2017. Respondent made its Return and Partial Motion to Dismiss on December 7, 2017. An evidentiary hearing into the matter was convened on April 3, 2018, at the Florence County Courthouse before the undersigned. Jonathan Waller, Esquire, represented Applicant. Lindsey A. McCallister, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Applicant testified on his own behalf. Marshall S. Weaver, Esquire, Applicant's plea counsel, was also called to testify. This Court also had before it a copy of the records of the Florence County Clerk of Court, records from the South Carolina Department of Corrections, the application, Respondent's Return, and the plea transcript.

**PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. In June 2016, the Florence County Grand Jury indicted Applicant for one count of first-degree burglary (2016-GS-21-0798),



CERTIFIED TRUE COPY  
 Doris Poulos O'Hara  
 CLERK OF COURT C.P. & G.S.  
 FLORENCE COUNTY, S.C.

two counts of receiving stolen goods (-0799, -800), and three counts of financial transaction card fraud (-0801, -0802).<sup>1</sup> Marshall Weaver (Counsel), Esquire, represented Applicant. Deputy Solicitor John Jupertinger, Esquire, prosecuted the case on behalf of the State. On August 12, 2017, Applicant pleaded guilty to the lesser included offense of second-degree burglary (violent) before the Honorable D. Craig Brown. The remaining charges were dismissed *nolle prosequi*. Pursuant to a negotiated sentence, Judge Brown sentenced Applicant to imprisonment for thirteen years. Applicant did not appeal his conviction or sentence.

**SUMMARY OF FACTS ADDUCED AT GUILTY PLEA**

Charles Smith (Smith) went to his son Carl's home around noon on January 15, 2016, to walk Carl's dog, Toby, while Carl was at work. Tr. pp. 12-13. As Smith walked up the driveway, he noticed a car idling in the carport, parked with the truck facing the rear door of the house. Tr. p. 13. Smith then rang the doorbell thinking his son had visitors. Tr. p. 13. When no one answered the door, Smith unlocked the deadbolt, and let himself inside. Tr. p. 13. Upon entering the home, Smith saw four or five guns on the kitchen table and in the living room — three air rifles, a McHenry rifle, and a shotgun. Tr. p. 13. Smith picked up the shotgun and walked toward the master bedroom, where he noticed the lights were on, but no one was there. Tr. pp. 13-14.

As Smith returned to the living room, he could see the back door had been kicked in, as the deadbolt was still engaged, but the door casing had been destroyed. Tr. p. 14. Smith was still standing in the living room when Applicant and his codefendant walked into the home. Tr. p. 14.

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<sup>1</sup> Applicant also pleaded guilty shoplifting — third or subsequent offense (2016-GS-21-0068) and was sentenced to time-served. Applicant does not challenge that conviction in this PCR application.

Smith pointed the shotgun at them, told them to get out, and they fled. Tr. p. 14. Smith later identified both Applicant and his codefendant from a photo lineup. Tr. p. 14. Smith also told investigators Applicant was wearing a ball cap, which was recovered at the scene. Tr. p. 14. The hat was submitted to SLED for DNA analysis, which matched Applicant along with two other unknown individuals. Tr. pp. 14-15.

As Applicant and his codefendant fled out the back door, Smith ran to the front and took down the license plate number of the car. Tr. p. 15. The tag was traced to Applicant's girlfriend. Tr. p. 15. Applicant's girlfriend was prepared to testify he dropped her off at work and took the car that day. Tr. p. 15. Applicant was located at her home the next day. Tr. p. 15. There, investigators also discovered a stolen pistol belonging to Carl, and iPad with a serial number matching that provided by Carl, and an iPod containing Carl's family photos. Tr. p. 15.

### ALLEGATIONS

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

1. Ineffective Assistance of Counsel, in that:
  - a. Applicant received "less than 30 minutes total consultation" with counsel.
2. Prosecutorial Misconduct/Brady violation
  - a. "My discovery did not include a chain of custody re: the DNA."
3. Grand Jury process was unconstitutional, in that:
  - a. "It is my understanding the GJ indicts about 99% with zero oversight."



**SUMMARY OF TESTIMONY**

Applicant testified he was arrested on charges of credit card fraud, receiving stolen goods, possession of a firearm, and first-degree burglary, which stemmed from separate incidents. According to Applicant, he was already in jail on the fraud and receiving stolen goods charges when he was charged with the burglary. Applicant testified he was appointed the same attorney to represent him on all charges, which was originally Hank Anderson. However, Applicant moved for Mr. Anderson to be relieved and was eventually appointed Counsel for the remainder of the case. Applicant testified he and Counsel met three times, and they discussed the case and the possible sentences Applicant was facing. However, Applicant felt the lawyers involved did not have his best interests at heart, and the State refused to lower its offer of thirteen years because doing so would make Mr. Anderson look bad.

Applicant further testified he discussed his version of events with Counsel, telling Counsel he was present at the scene of the robbery but did not know what was going to happen and did not enter the house. According to Applicant, he was driving, with his codefendant in the front passenger seat, to a house to meet "two white guys." Applicant testified he thought they were moving guns for someone in the house, and he thought they knew people in the house. Applicant testified he told Counsel he never went in the house. Applicant testified he went to the back door, saw the door kicked in, and yelled for his codefendant, who came running out. According to Applicant, the codefendant hit Applicant's head as the codefendant ran out of the house, knocking off Applicant's hat.



Applicant testified he and Counsel did not fully discuss the State's burden of proof, specifically the issue of criminal intent. Applicant testified they just talked about the fact that he did not enter the house. Applicant further testified he and Counsel did not discuss the concepts of "hand of one, hand of all," mere presence, or intent. However, on cross-examination, Applicant conceded the court questioned him as to whether he understood the concept of "hand of one, hand of all," and Applicant told the court he understood, he was present at the scene, and he knew what was going to happen. Applicant testified he did not think he had any defense to the charges at the time he entered the plea and still did not know if he had a defense. Applicant testified Counsel told him one of the victims had seen Applicant in the house, and Counsel could question the victim on that issue, but it was not a strong defense. According to Applicant, he felt he could "beat" these charges, but Counsel and Applicant's mother advised him to plead guilty.

Counsel testified he was appointed on March 31, 2017 after Mr. Anderson was relieved. Counsel testified he had been practicing law for nine years, with approximately thirty percent of practice in criminal litigation. Counsel testified he met with Applicant three times at the detention center and then extensively on the day of the plea.

Counsel testified he had an in-depth meeting with Applicant on April 5, 2017, at which time they reviewed the investigative report, the photo lineup identification of Applicant by the victim, the evidence tracing the car to Applicant's girlfriend, and the various items of evidence recovered from the girlfriend's home. According to Counsel, Applicant's girlfriend would have testified at trial he dropped her off that day and took the car. Counsel testified he had another meeting with Applicant on June 1, 2017, by which time SLED had completed DNA testing on the



hat recovered from the scene, and the DNA matched Applicant. Counsel testified, at this meeting, he and Applicant discussed the options for going to trial, as well as the concept of "hand of one, hand of all." According to Counsel, Applicant was "hung up on" his claim that he did not enter the house, but Counsel testified he felt Applicant understood the concept by the day of the plea.

Counsel testified he met with Applicant again on June 9, 2017. At that meeting, Counsel and Applicant again reviewed all of the discovery and the elements of the charges. Specifically, Counsel testified he and Applicant talked about the victim eyewitness, the DNA, and the items found at the girlfriend's house. Counsel testified he and Applicant also discussed violent/non-violent offenses and sentencing at this meeting. Finally, Counsel testified he met with Applicant for approximately thirty to forty-five minutes immediately prior to entering the guilty plea. Counsel explained Applicant wanted the solicitor to reduce the negotiated offer, but the State refused. Counsel testified it was Applicant's decision not to go to trial, and he felt Applicant understood the negotiated plea.

Counsel testified Applicant's story changed as they received more evidence, and he and Applicant discussed Applicant's version of the facts at length. Counsel testified the trial date he was given was more than a week in advance (June 19, 2017), and although he did not have any notes reflecting trial preparation, he had reviewed the discovery and possible defenses. Counsel testified he would have attacked the significance of the hat, and he would not have called any witnesses other than Applicant. Counsel further testified he and Applicant discussed Applicant's original version of the facts involving the two other men, but Counsel explained that version

changed and was not a defense. Counsel also testified he was sure he and Applicant discussed a "mere presence" defense as part of the "hand of one, hand of all" discussion.

Finally, Counsel testified he was aware of Facebook messages sent by Applicant's codefendant to Applicant's family offering to "take the rap" if someone would put money on his account. Counsel testified he did not follow up on that, but he would have if Applicant had decided to proceed to trial. Counsel also explained although the DNA testing at SLED was slow, he received the results in time for Applicant to make an informed decision about what to do. Counsel testified the DNA was not necessary because Applicant never denied wearing the hat, but if it had come back without Applicant's DNA on it, it could have ruled Applicant out as the person the victim saw.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. This Court finds Counsel's testimony on these issues to be credible, while also finding Applicant's testimony was not credible. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (2003).

Applicant alleges he received 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, Applicant must prove "counsel's conduct so



undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 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 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 plea counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove 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, 466 U.S. at 688 (1984)). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 117-18, 386 S.E.2d at 625. When there has been a guilty plea, the applicant must prove counsel’s representation was below the standard of reasonableness and that, but for counsel’s unprofessional errors, there is a reasonable probability he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991).



In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, an applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63 (1977). Statements 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. Crawford v. U.S., 519 F.2d 347 (4<sup>th</sup> Cir. 1975) overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir. 1985).

This Court finds Applicant has failed to prove Counsel's performance was deficient in any way. Counsel met with Applicant numerous times and took extensive notes regarding those meetings. Counsel's notes reflect he and Applicant discussed Applicant's version of the facts, the elements of the charges and the State's burden of proof, possible defenses, and Applicant's option to proceed with a trial or enter a guilty plea. This Court finds Counsel had a plan for trial had Applicant wished to pursue that course of action.

This Court has also reviewed the transcript and finds the plea colloquy is determinative as to all of Applicant's issues. The plea colloquy was thorough, and the plea court gave Applicant ample opportunity to discuss any issues or questions Applicant had during the plea with Counsel. This Court also finds the decision to plead guilty was freely and voluntarily made. During the guilty plea, Applicant testified he understood the plea was negotiated for a thirteen year sentence, he was entering into the agreement freely and voluntarily, and he wished the judge to accept it. See Tr. pp. 10, 11, 21, 26. Applicant also testified during the plea he was satisfied with the services of his attorney and had enough to discuss the case with Counsel. See Tr. pp. 10-11. 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)).

This Court finds Applicant failed to present any such reason in this case.

Accordingly, these allegations are denied and dismissed.

### CONCLUSION

Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.



**IT IS THEREFORE ORDERED:**

1. the Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall be remanded to the custody of the Respondent.

**AND IT IS SO ORDERED.**

*[Handwritten signature]*  
 2016

*[Handwritten signature]*  
 \_\_\_\_\_  
 GEORGE M. McFADDIN, JR.  
 Presiding Circuit Court Judge  
 Twelfth Judicial Circuit

**FILED**  
 2019 JAN 11 AM 10:44  
 DORIS POULOS O'HARA  
 C.C.P. & G.S.  
 FLORENCE COUNTY, SC

CERTIFIED A TRUE COPY  
*[Handwritten signature]*  
 CLERK OF COURT C.P. & G.S.  
 FLORENCE COUNTY, SC

**WITNESSES**

Alvin Worsley

Florence County Sheriff

**DOCKET NO. 2016-GS-21-00798**

The State of South Carolina

County of

**FLORENCE**

**COURT OF GENERAL SESSIONS**

**JUNE      TERM      2016**

**THE STATE**

vs.

**CHRISTOPHER ANTWAN COOPER**

John C Jepertinger

**ARREST WARRANT NUMBER**

2016A2110200055

**ACTION OF GRAND JURY**

**Indictment for**

**BURGLARY FIRST DEGREE**

Foreperson of Grand Jury

Date: 6-9-16

**VERDICT**

**TRUE BILL**

Foreperson of Petit Jury

Date:

2016 JUN -9 PM 1:40  
CORRECTIONAL RELEASE  
CCCP & GS  
FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

INDICTMENT FOR  
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on JUNE 9, 2016 the Grand Jurors of FLORENCE County present upon their oath:

**COUNT ONE- BURGLARY FIRST DEGREE**

That Christopher Antwan Cooper, along with another, did in Florence County, on or about January 15, 2016, enter the dwelling of [REDACTED] and [REDACTED], located at [REDACTED] [REDACTED] without consent and with the intent to commit a crime therein; and said defendant when effecting entry or while in the dwelling or in immediate flight therefrom was armed with a deadly weapon; in violation of Section 16-11-0311, S.C. Code of Laws, 1976, as amended.

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



---

**E.L. Clements, III**  
TWELFTH CIRCUIT SOLICITOR

WITNESSES

Thomas Mcfadden Florence County Sheriff

DOCKET NO. 2016-GS-21-00799

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

JUNE TERM 2016

THE STATE

vs.

CHRISTOPHER ANTWAN COOPER

John C Jepertinger

ARREST WARRANT NUMBER

2015A2110200749

ACTION OF GRAND JURY

Indictment for

RECEIVING STOLEN GOODS

Foreperson of Grand Jury

Date: 6-9-16

VERDICT

TRUE BILL

Foreperson of Petit Jury

Date:

2016 JUN -9 PM 1:40  
CORINNE WELLS SHEARD,  
CCJP & GS  
FLORENCE COUNTY, SC

FILED

not press  
upon plea to  
other indictments

JLC  
6/12/17

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

INDICTMENT FOR  
RECEIVING STOLEN GOODS

At a Court of General Sessions, convened on JUNE 9, 2016 the Grand Jurors of FLORENCE County present upon their oath:

**COUNT ONE- RECEIVING STOLEN GOODS**

That Christopher Antwan Cooper did in Florence County, on or about August 8, 2015, with criminal or fraudulent intent, buy, receive or possess stolen goods, chattels, or other property knowing or having reason to believe such property was stolen, in that he possessed a ring valued at approximately \$3000.00 belonging to [REDACTED], valued at more than two thousand (\$2000) dollars but less than ten thousand (\$10,000) dollars, in violation of Section 16-13-0180(2), S. C. Code of Laws, 1976, as amended.

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



\_\_\_\_\_  
**E.L. Clements, III**  
TWELFTH CIRCUIT SOLICITOR

**WITNESSES**

Chris Owens Florence County Sheriff

DOCKET NO. 2016-GS-21-00800

The State of South Carolina

County of

FLORENCE

**COURT OF GENERAL SESSIONS**

JUNE TERM 2016

**THE STATE**

vs.

**CHRISTOPHER ANTWAN COOPER**

John C Jupertinger

ARREST WARRANT NUMBER

2015A2110200818

ACTION OF GRAND JURY

Indictment for

**RECEIVING STOLEN GOODS**

VERDICT

**TRUE BILL**

Foreperson of Grand Jury  
Date: 6-9-16

Foreperson of Petit Jury

Date:

not press  
upon plea to  
other individuals  
JLC  
6/12/17

CONNIE BELL HEARIN  
CCOP & GS  
FLORENCE COUNTY, SC

2016 JUN -9 PM 1:40

FILED

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF FLORENCE )

INDICTMENT FOR  
 RECEIVING STOLEN GOODS

At a Court of General Sessions, convened on JUNE 9, 2016 the Grand Jurors of FLORENCE County present upon their oath:

**COUNT ONE- RECEIVING STOLEN GOODS**

That **Christopher Antwan Cooper** did in Florence County, on or about August 12, 2015, with criminal or fraudulent intent, buy, receive or possess stolen goods, chattels, or other property knowing or having reason to believe such property was stolen, in that he possessed jewelry belonging to [REDACTED], valued at more than two thousand (\$2000) dollars but less than ten thousand (\$10,000) dollars, in violation of Section 16-13-0180(2), S. C. Code of Laws, 1976, as amended.

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




---

**E.L. Clements, III**  
 TWELFTH CIRCUIT SOLICITOR

WITNESSES

Stephen Banister Florence Police Department

DOCKET NO. 2016-GS-21-00801

The State of South Carolina

County of

FLORENCE

FILED

2015 JUN -9 PH 1:28

CONNIE REEL-SHEARIN  
CCCP & GS  
FLORENCE COUNTY, SC

COURT OF GENERAL SESSIONS

JUNE TERM 2016

THE STATE

vs.

CHRISTOPHER ANTWAN COOPER

John C Jepertinger

ARREST WARRANT NUMBER

2015A2120201651

not press  
upon plea to other  
indictments

ACTION OF GRAND JURY

Indictment for

FINANCIAL TRANSACTION CARD FRAUD

Joe C J  
6/12/17

*Joe C J*  
Foreperson of Grand Jury

Date: 6-9-16

VERDICT

TRUE BILL

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF FLORENCE )

INDICTMENT FOR  
 FINANCIAL TRANSACTION CARD FRAUD

At a Court of General Sessions, convened on JUNE 9, 2016 the Grand Jurors of FLORENCE County present upon their oath:

**COUNT ONE- FINANCIAL TRANSACTION CARD FRAUD**

That Christopher Antwan Cooper did in Florence County on or about November 17, 2015, use a financial transaction card, namely: an American Express Credit Card issued to [REDACTED] that was illegally obtained or retained or received with knowledge that it was illegally obtained or retained or which he/she knew to be forged, altered, expired, or obtained as a result of a fraudulent application, with the intent to defraud the issue or anyone else of something of value in the amount of more than five hundred dollars in a six-month period, in violation of Section 16-14-0060(a)(1-5), S. C. Code of Laws, 2003, as amended.

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




---

**E.L. Clements, III**  
 TWELFTH CIRCUIT SOLICITOR

**WITNESSES**

**Alvin Worsley**                      **Florence County Sheriff**

**DOCKET NO. 2016-GS-21-00802**

**The State of South Carolina**

**County of**

**FLORENCE**

**COURT OF GENERAL SESSIONS**

**JUNE            TERM            2016**

**THE STATE**

**vs.**

**CHRISTOPHER ANTWAN COOPER**

**John C Jepertinger**

**ARREST WARRANT NUMBER**

**2016A2110200040            2016A2110200041**

**ACTION OF GRAND JURY**

*John Davis*

**Foreperson of Grand Jury**

**Date:** *6-6-16*

**VERDICT**

**TRUE BILL**

**Foreperson of Petit Jury**

**Date:**

114

**Indictment for**

**FINANCIAL TRANSACTION CARD FRAUD  
(TWO COUNTS)**

CONNIE ACCELL SULLIVAN  
CCCP & GS  
FLORENCE COUNTY, SC

2016 JUN -9 PM 1:40

FILED

*not pass  
upon plea to  
other indictments  
JLC JG  
6/12/16*

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF FLORENCE )

INDICTMENT FOR  
 FINANCIAL TRANSACTION CARD FRAUD  
 (TWO COUNTS)

At a Court of General Sessions, convened on JUNE 9, 2016 the Grand Jurors of FLORENCE County present upon their oath:

**COUNT ONE- FINANCIAL TRANSACTION CARD FRAUD**

That Christopher Antwan Cooper, along with co-defendants, did in Florence County on or about January 11, 2016 use a financial transaction card, namely: a Visa Credit Card issued to [REDACTED] that was illegally obtained or retained or received with knowledge that it was illegally obtained or retained or which he/she knew to be forged, altered, expired, or obtained as a result of a fraudulent application, with the intent to defraud the issue or anyone else of something of value in the amount of five hundred dollars or less in a six-month period, in violation of Section 16-14-0060(a)(1-5), S. C. Code of Laws, 2003, as amended.

**COUNT TWO- FINANCIAL TRANSACTION CARD FRAUD**

That Christopher Antwan Cooper, along with co-defendants, did in Florence County on or about January 11, 2016, use a financial transaction card, namely: a Visa Credit Card issued to [REDACTED], that was illegally obtained or retained or received with knowledge that it was illegally obtained or retained or which he/she knew to be forged, altered, expired, or obtained as a result of a fraudulent application, with the intent to defraud the issue or anyone else of something of value in the amount of more than five hundred dollars in a six-month period, in violation of Section 16-14-0060(a)(1), S. C. Code of Laws, 2003, as amended.

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



\_\_\_\_\_  
 E.L. Clements, III  
 TWELFTH CIRCUIT SOLICITOR

AKA:

Race: Black Sex: M Age: 29

DOB:

Address:

City, State:

DL#: SID#:

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

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

TO: Shoplifting / Value more than \$2,000 and less than \$10,000(Enhancement per 16-1-57) (D-10)

in violation of § 16-13-0110(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2877

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

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

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

ATTEST: John C. Jernperinger SC Bar# 9826 Defendant Christopher S. [Signature] Attorney for Defendant 28752 SC Bar#

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

for a determinate term of 513 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

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

CONCURRENT or  CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 513 days

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

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered

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

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ <u>100.00</u>
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ <u>3.25</u>

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk E. Ragin

Court Reporter: K. Smith

INDICTMENT/CASE#: 2016-GS-21-00068

A/W#: 2015A2120201237

Date of Offense: 7/30/2015

S.C. Code § : 16-13-0110(B)(1)

CDR Code #: 2877

SENTENCE SHEET

CONVICTED OF or  PLEADS

in violation of § 16-13-0110(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2877

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

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

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

ATTEST: John C. Jernperinger SC Bar# 9826 Defendant Christopher S. [Signature] Attorney for Defendant 28752 SC Bar#

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

for a determinate term of \_\_\_\_\_ days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

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

CONCURRENT or  CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 513 days

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

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered

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

Payment Terms: \_\_\_\_\_

Set by SCDPPPS \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ <u>100.00</u>
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ <u>3.25</u>

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk E. Ragin

Court Reporter: K. Smith

Presiding Judge [Signature]

Judge Code: 260

Sentence Date: 6-12-17

NOTARIZED: A TRUE COPY  
CLERK OF COURT  
FLORENCE COUNTY, S.C.  
[Signature]

\$ \_\_\_\_\_ paid to Public Defender Fund  
Other: pay \$40 public defender fee

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

COUNTY OF Florence VS. STATE

INDICTMENT/CASE#: 2016-GS-21-00798

Christopher Antwan Cooper

A/W#: 2016A2110200055

AKA:

Date of Offense: 1/8/2016

Race: Black Sex: M Age: 29

S.C. Code §: 16-11-0311

DOB: [REDACTED]

CDR Code #: 0079

Address: [REDACTED]

City, State: [REDACTED]

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

SENTENCE SHEET

\*CDL Yes [ ] No [ ] CMV Yes [ ] No [ ] Hazmat Yes [ ] No [ ]

In disposition of the said indictment comes now the Defendant who was TO: Burglary / Burglary (Violent) (After 06/20/85) - Second degree (0-13) [ ] CONVICTED OF or [X] PLEADS

in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086

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

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

The plea is: [ ] Without Negotiations or Recommendation, [X] Negotiated Sentence, [ ] Recommendation by the State.

ATTEST: [Signature] 9826 SC Bar# [Signature] 13 years Defendant [Signature] 78752 SC Bar# Attorney for Defendant

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [ ] County Detention Center, for a determinate term of 13 days/months/years or [ ] under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment of \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

[ ] CONCURRENT or [ ] CONSECUTIVE to sentence on: [X] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 513 days

[ ] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135. Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS: [ ] RESTITUTION: [ ] Deferred [ ] Def. Waives Hearing [ ] Ordered Total: \$ plus 20% fee: \$ Payment Terms: [ ] Set by SCDPPS

PTUP days/hours Public Service Employment Obtain GED [ ] Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly prmts. of \$ beginning \$ paid to Public Defender Fund Other:

Table with 2 columns: Description and Amount. Rows include assessments, surcharges, and fees. Total: \$128.75

[ ] Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk [Signature] Court Reporter: [Signature] SCCA/217 (07/2016)

Presiding Judge [Signature] Judge Code: 2160 Sentence Date: 6-12-17

CERTIFIED: A TRUE COPY CLERK OF COURT, C.P. & G.S. FLORENCE COUNTY, S.C.