

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Marion County

Honorable Michael G. Nettles, Circuit Court Judge

PATRICK DAVID VAUGHN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-000150

APPENDIX

WANDA H. CARTER
Deputy Chief Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

SAMUEL KEY
Assistant Attorney General
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA

COUNTY OF MARION

State Of South Carolina

vs.

Patrick David Vaughn
DEFENDANT

)
) COURT OF GENERAL SESSIONS
) 2014-GS-33-0402
)
)
)
)
)
)

)
)
) TRANSCRIPT OF RECORD
)
)

)
) August 5, 2015
) Marion, South Carolina

B E F O R E:

THE HONORABLE WILLIAM H. SEALS, JR., JUDGE.

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

TODD TUCKER, ASSISTANT SOLICITOR
Attorney for the State

VICK MEETZE, ASSISTANT PUBLIC DEFENDER
Attorney for the Defendant

KESHIA REED
Official Court Reporter

I N D E X

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(WHEREUPON, there were no witnesses called.)

1 THE COURT: Everybody that's in the courtroom
2 and signed up to plead guilty or thinking about pleading
3 guilty, I want to go over certain rights that you have and
4 I want you to understand those rights. First thing I want
5 to tell you is that you do not have to plead guilty. If
6 you rather have a trial instead, all you have to do is ask
7 me. I want you to understand that if you have a trial the
8 burden of proof is on the State of South Carolina to prove
9 you guilty beyond a reasonable doubt.

10 Furthermore, if you had a trial, you'd have a
11 jury made up of 12 people and it would have to take all 12
12 members of that jury to agree unanimously to convict you
13 before the Court could sentence you. Furthermore, if you
14 had a trial, your lawyer would have the right to
15 cross-examine and confront each and every one of the
16 State's witnesses. Furthermore, at your trial, you could
17 come over here, you could be sworn in, you could take the
18 witness stand and you could testify. However, it's
19 important to understand that you do not have to testify
20 because you have the Constitutional Right to remain
21 silent. And if you choose to exercise that right, I want
22 you to understand that I'll tell the jury they cannot use
23 that against you in any way. I would even tell the jury
24 that they cannot talk about that fact in the jury room.
25 The fact that you did not testify would have absolutely no

1 prejudice against you.

2 Furthermore, if you have a trial or if you plead
3 guilty and you not happy with something that takes place,
4 you can appeal it, but you got to do so within ten days.
5 These are your rights. I want you to understand these
6 rights. If you come before me and have any questions
7 about your rights to a trial, do not hesitate to ask and
8 I'll make sure they're cleared up. With that being said
9 Solicitor, I'm ready for pleas.

10 (WHEREUPON, all defendants were given their
11 rights at the beginning of the morning. This begins
12 the guilty plea of Patrick David Vaughn.)

13 THE CLERK: Do you swear to tell the truth, the
14 whole truth, and nothing but the truth so help you God?

15 THE DEFENDANT: Yes, ma'am.

16 THE CLERK: Thank you.

17 THE COURT: Yes, sir.

18 MR. TUCKER: Thank you, Your Honor. May it
19 please the Court. This is indictment 2014-GS-33-0402 the
20 State of South Carolina vs. Patrick David Vaughn. Mr.
21 Vaughn is pleading guilty to one count of armed robbery
22 for which he can get no less than ten years no more than
23 30 years. This is a negotiated plea with a negotiated
24 sentence of 20 years. In connection with this plea, Your
25 Honor, we are dismissing other counts on that indictment

1 as well as a separate indictment 2015-GS-33-0295 that also
2 is for armed robbery.

3 THE COURT: All right. And, Mr. Vaughn, you are
4 pleading guilty to armed robbery which carries a minimum
5 of ten years and a maximum of 30 years; is that correct?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Were you in the courtroom today when
8 I went over your rights to a trial?

9 THE DEFENDANT: Yes, sir, I was.

10 THE COURT: Did you understand those rights?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you want to give up your right to
13 a trial and plead guilty?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You satisfied with your lawyer?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Has he answered all of your
18 questions?

19 THE DEFENDANT: Yes, sir.

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

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Has anybody promised you anything to
24 get you to plead?

25 THE DEFENDANT: No, sir.

1 THE COURT: Anybody threatening you in any way
2 to make you plea?

3 THE DEFENDANT: No, sir.

4 THE COURT: Are you under the influence of any
5 drugs or alcohol at this time?

6 THE DEFENDANT: No, sir.

7 THE COURT: Are you guilty?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you understood all of my
10 questions?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Thank you.

13 MR. TUCKER: Thank you, Your Honor. May it
14 please the Court. Your Honor, before I begin seated
15 behind me are two of the victims in the armed robbery on
16 my left is Connie Thompson, on my right would be Laura
17 Reeves. I do not believe they wish to address the Court,
18 Your Honor, but I wanted to make the Court aware of their
19 presence. At any rate, Your Honor, this incident occurred
20 on April the 14th 2014, at or around one p.m. The
21 incident location is the Bridgers Drugstore, which is at
22 305 North Main Street in the City of Marion. On that date
23 and time, Your Honor, law enforcement received a call of
24 an armed robbery in progress. When they arrived, actually
25 two things were happening kind of simultaneously. But at

1 any rate from what the investigation revealed, an
2 individual came through the back of Bridgers Drugstore,
3 which is open to the public and it's the access, I think,
4 immediately closest to where the pharmacy counter is. At
5 any rate there were numerous employees in the
6 establishment. The first one that encountered the
7 individual who came in was Ms. Reaves. She indicated that
8 she noticed an individual kind of come up behind her. She
9 felt something press up against her neck and she said for
10 a few minutes she actually thought it was some kind of a
11 joke, but when she got a better look at the individual,
12 who she described as having a stocking mask on, she
13 noticed that the object that was present up against her
14 neck was in fact a gun.

15 At this point she realized what was going on and
16 kind of came around the corner at which point the
17 individual who had the gun and stocking mask on brandished
18 a firearm at the pharmacist who was Mr. William Allen. At
19 any rate in addition to having a firearm, the individual
20 kept repeatedly demanding money. He, in fact, had brought
21 a rather distinctive bag in which he directed Mr. Allen to
22 place the money. While he had the gun pointed at
23 Mr. Allen, he indicated that he wanted the money up under
24 the drawer under the counter. Mr. Allen told him he
25 didn't have any all he had was what was in the cash

1 drawer.

2 Now, while that was going on, Ms. Thompson, who,
3 I think, is actually the owner of the store, she and
4 another employee were kind of on the far side of the
5 counter away from where this was going on but were able to
6 see what was going on. One of the employees there was
7 alert and got on the phone to call 9-1-1, so law
8 enforcement was actually responding while the thing was
9 still in progress. At any rate after Mr. Allen put pretty
10 much all of the money that was in the drawer into the bag,
11 the individual left and took off back out the same way he
12 claim.

13 At any rate as he came out unbeknownst to him
14 Areialst (sic) Cribb, who works at the Marion Police
15 Department, was actually kind of coming around the corner
16 when the call went out. He pulled down the street that
17 separates the Robert E. Lee Law Firm and the Bridgers
18 Drugstore the rear entrance and saw the individual pop out
19 matching the description. At any rate Officer Cribb was
20 able to follow and hit the lights approaching for him to
21 stop. He saw the individual kind of take off the stocking
22 mask and drop it in addition to a bag.

23 At any rate as the individual walked over where
24 Mr. Cribb was, he indicated that matching the description
25 as he did, he went ahead and took custody of him. Went to

1 where he saw him drop the bag, the bag again had large
2 amount of cash in it, also had what turned out to be the
3 pistol used in this thing in addition to the stocking.
4 While this was going on Captain Cindy Barr with the Marion
5 County Police Department responded and she was actually
6 making contact with the individuals to find out what was
7 going on inside the store, but at this point the
8 individual whom was identified as Patrick David Vaughn was
9 already in custody.

10 At any rate, Your Honor, they were able to pull
11 up a video that kind of watches the back entrance of the
12 drugstore. From that they were able to positively match
13 the individual that Mr. Cribb had into custody with the
14 individual terms of what he had on him in clothing and
15 with the stocking. Also the -- as you can see, the
16 individual come through the back door, he kind of turns to
17 the camera and you can see a very distinctive Nike book
18 bag rather unique and very descriptive writing on the back
19 of it. But at any rate, Your Honor, once Mr. Vaughn was
20 in custody, he was taken to the police department. After
21 being Mirandized, he gave a complete statement to Captain
22 Barr in which he indicated that he had committed the crime
23 in question.

24 In terms of a prior record, Your Honor, he was
25 out, actually on YOA probation when this happened for

1 burglary third. Again, Your Honor, we're also dismissing
2 the second armed robbery that occurred actually a couple
3 weeks before this one pursuant to this plea. And again I
4 don't believe Ms. Thompson or Ms. Reeves want to say
5 anything. I know that in dealing with them, it was a very
6 traumatic thing. I know that Ms. Reaves was very
7 emotional and actually couldn't even give a statement that
8 evening when this thing happened. And so as you can
9 imagine it was very upsetting and very traumatic for them.

10 THE COURT: Are they in agreement with the
11 negotiations?

12 MR. TUCKER: They are, Your Honor. We kind of
13 -- in fact, I think, Ms. Thompson kind of got tired of
14 seeing me come in disrupt business, but they are in
15 complete agreement.

16 THE COURT: I understand.

17 Mr. Meetze.

18 MR. MEETZE: Thank you, Your Honor. May it
19 please the Court. Your Honor, I just have a few things I
20 want to put on the record. First off, he's been in jail
21 for 479 days since the arrest on this charge. I've talked
22 with Patrick about this case a number of times. I been
23 over with him all of the consequences of his plea. I've
24 been over with him the fact that armed robbery does carry
25 a minimum of ten and up to 30 years. I been over with him

1 that it's one of the more serious in violent charges that
2 we have in our law and that when someone is convicted of
3 those kinds of charges that the law treats them seriously.
4 And I think that the recommendation that the Solicitor's
5 made has enforced that. And even though it is what I
6 would consider a stiff penalty, I think it's his best
7 option in this case to accept that recommendation and I
8 have recommended that he do that. Your Honor, I been over
9 with him the fact that armed robbery is a violent offense
10 and the consequences of that with regards to armed robbery
11 and how it pertains to him. I been over with him the fact
12 that it's a most serious offense, that it's a strike in
13 both South Carolina's two strikes and three strikes law.
14 As I've explained to him that under those laws if he is to
15 get out and commit any more most serious offenses, that
16 that would be a second strike and could as long as proper
17 notice was served, that he would face a life sentence upon
18 a conviction for a second most serious offense. And that
19 we have offenses considered serious offenses and that if
20 he got a combination of three serious and most serious
21 offenses, this would be one strike towards that
22 eventuality. If he were to get a third strike under that
23 scenario, a third strike would result in a life sentence
24 should he receive the notice from the prosecutor's office
25 of an intent to seek that sentence. But that if that

1 notice was served and all and he was convicted, the Court
2 would have no discretion at that point but to sentence him
3 to life in prison. So he understands all of that that we
4 went over. And I again I agree with his decision to enter
5 his plea.

6 I will put one other thing on the record Your
7 Honor in our discussions down at the jail, he had
8 indicated to me that he would like for our office to make
9 a motion before the Court that he be evaluated as to
10 competency. But in my discussions with him as well my
11 review of the evidence to include viewing the videotaped
12 statement that he made, I just did not see any basis for
13 that for me to come before the Court as an officer of the
14 court and ask for that. I just did not feel like it was
15 appropriate in this case.

16 Even though he requested I do that, I told him
17 that I did not feel like in good faith that that was an
18 appropriate motion to make and I did not make that motion
19 on his behalf, but I wanted to put on the record that he
20 had asked me to do that that I had told him I didn't feel
21 like it was an appropriate motion in this case based on
22 the evidence, based on our conversations and nothing that
23 has raised any kind of red flag that he had any issues
24 with regards to competency in this case and we did not
25 make that motion on his behalf. Otherwise, Your Honor,

1 it's a sad case and I do agree with his decision to enter
2 his plea. And we would ask that you accept the
3 negotiation.

4 THE COURT: All right. I'll accept the
5 negotiation. The sentence of the Court is 20 years. I'll
6 give him 479 days credit. Thank you.

7 MR. TUCKER: Thank you, Your Honor.

8 MR. MEETZE: Thank you, Your Honor.

9 END OF REQUESTED TRANSCRIPT

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2016-CP-33-324

FORM 5 ED

2016 MAY 17 AM 9:22

CLERK OF THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA)

County of Marion, SC)

Patrick David Vaughn 360996)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be written (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 an additional page. Applicant shall make clear to which questions 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 for 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 Liber Correctional Institution, Ridgelle
SC
2. Name and location of Court which imposed sentence Marion, SC
3. Name(s) of co-defendant(s) (if any) _____
4. The indictments number or numbers (if known) upon which and the offences for which sentence was imposed:
(a) 2014 A3320100117

(b) 2014 A3320100118

(c) 2014 A 3320100119

5. The date upon which sentence was imposed and the terms of the sentence:

(a) August 2015

(b) 20 years 85%

(c) _____

6. Check whether a finding of guilty plea was made:

(a) after a plea of guilty

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

no

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

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

i. _____

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

(d) if known, citations of written opinion entered pursuant to such results:

i. _____

- ii. _____
- iii. _____

9. If you answered "no" to (7), state reasons for not appealing:

- (a) Did not have knowledge an appeal could have been made
- (b) _____
- (c) _____

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

- (a) Conflict of interest
- (b) Ineffective Assistance Counsel
- (c) Cohearsion

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

- (a) My Lawyer and the Judge knew the victims in my case
- (b) There's no forensic evidence that connects me to the case
- (c) My Lawyer cohearsed me to take the plea when I wanted a jury trial.

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. _____
 - ii. _____

- i. _____
- ii. _____
- iii. _____

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

- (a) No Knowledge of the law
- (b) Was not advised by counsel
- (c) _____

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?

- (e) preparation, presentation or consideration of any petition, motion or applications with respect to this conviction, which you filed? _____

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

- (a) the name and address of each attorney who represented you:
 - i. Vick Meetze Deputy Public Defender
 - ii. Marion County Office
 - iii. 221 North Main Street, Marion, South Carolina
- (b) the proceeding at which each attorney represented you:
 - i. Sentencing
 - ii. _____
 - iii. _____

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

A New trial

FILED

2016 MAY 17 AM 9:22

CLERK OF COURT

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

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Marion)

VERIFICATION

I, Patrick Vaughn, 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 include 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.

Patrick Vaughn

SWORN to and subscribed before me this 6th
Day of May, 2016

Ludbeck Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

FILED

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

MAY 17 AM 9:22

I, Patrick Vaughn, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefore. 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.

Patrick Vaughn
Applicant

SWORN to and subscribed before me this 16th
Day of May, 2016

Ludreen Buzgat (L.S.)
Notary Public

My Commission Expires: May 26, 2020

STATE OF SOUTH CAROLINA

COUNTY OF MARION

Patrick David Vaughn, #360996,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

TWELFTH JUDICIAL CIRCUIT

2016-CP-33-0324

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed on May 17, 2016, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Marion County. Applicant was indicted at the November 2014 term of the Marion County Grand Jury for one count of Armed Robbery, one count of Possession of a Weapon by a Convicted Felon, and two counts of Pointing and Presenting a Firearm (2014-GS-43-0402). Applicant was represented by Vick Meetze, Esq. On August 5, 2015, Applicant appeared before the Honorable William H. Seals, Jr. and pled guilty to Armed Robbery pursuant to an agreement with the State for a negotiated sentence and dismissal of the remaining indictments. Judge Seals sentenced Applicant to the negotiated term of twenty years imprisonment for Armed Robbery.

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

II.

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

1. Conflict of Interest
 - a. "My lawyer and the judge knew the victims in my case."
2. Ineffective Assistance of Counsel
 - a. "There's no forensic evidence that connects me to the case."
3. Involuntary Guilty Plea
 - a. "My lawyer coerced me to take the plea when I wanted a jury trial."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. SCRP Rule 11. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only person authorized to file amendments. SCRPC Rule 11.

III.

In his first two claims, Applicant alleges ineffective assistance of counsel due to insufficient evidence, as well as that his attorney had a conflict of interest. Respondent contends Applicant's counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his or her application. Id. at 442, 334 S.E.2d at 814. Where the application alleges

ineffective assistance of counsel as a ground for relief, the applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 443, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. The 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 that counsel’s performance was deficient. Id. Under this prong, the court measures an attorney’s performance by its “reasonableness under professional norms.” Id. (quoting Strickland, 466 U.S. at 688). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show there is a reasonable probability that, but for counsel’s alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

Furthermore, it appears the Applicant alleges the evidence presented by the State was insufficient. However, a guilty plea generally acts as a waiver of all non-jurisdictional defects and defenses. State v. Munsch, 287 S.C. 313, 338 S.E.2d 329 (1985). The plea admits all elements of the offense charged and “leaves open for review only the sufficiency of the

indictment and waives all other defenses.” Id. at 314, 338 S.E.2d at 330; *cf.* United States v. Broce, 488 U.S. 563, 569, 109 S.Ct. 757, 102 L.Ed.2d 927 (1989). The PCR court cannot consider the sufficiency of the evidence against a convicted defendant. S.C. Code Ann. § 17-27-20(a)(6) (1985). The Uniform Post-Conviction Procedure Act is not a substitute for remedies that were available before and during the original proceeding or on appeal. *See* Irick v. State, 264 S.C. 632, 216 S.E.2d 545 (1975); Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1975).

Applicant also alleges a conflict of interest. Respondent submits that Applicant has not offered any evidence supporting this allegation. “In order to establish a violation of the Sixth Amendment, a defendant who raised no objection at trial must demonstrate that an actual conflict of interest adversely affected his lawyer’s performance.” Duncan v. State, 281 S.C. 435, 438, 315 S.E.2d 809 (1984). “An actual conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendant’s.” Staggs v. State, 372 S.C. 549, 551, 643 S.E.2d 690, 692 (2007). The South Carolina Supreme Court has further stated that a conflict of interest occurs when “a defense attorney places himself in a situation inherently conducive to divided loyalties.” Lomax v. State, 379 S.C. 93, 101, 665 S.E.2d 164, 168 (2008). However, merely the possibility that “defense counsel may have a conflict of interest is insufficient to impugn a criminal conviction.” State v. Gregory, 364 S.C. 150, 152–53, 612 S.E.2d 449, 450 (2005). Until a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for a claim of ineffective assistance of counsel. Langford v. State, 310 S.C. 357, 359, 426 S.E.2d 793, 795 (1993) (citing Cuyler v. Sullivan, 446 U.S. 335, 350 (1980)); *see also* Burger v. Kemp, 483 U.S. 776, 783 (1987).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact

that cannot be conclusively refuted by the record. Therefore, 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.

Respondent further submits Applicant's third allegation that his guilty plea was involuntary is without merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citing Drayton v. Evatt, 312 S.C. 4, 430 S.E.2d 517 (1993); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993); Hyman v. State, 278 S.C. 501, 299 S.E.2d 330 (1983)). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Lockhart, 474 U.S. at 59. An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Id. at 56.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the 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). Respondent submits that the transcript reflects that the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. 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 (4th Cir. 1975) *overruled on other grounds by* U.S. v. Whitley, 759 F.2d 327 (4th Cir. 1985). Applicant has presented no reasons to show that he should be allowed to depart from the truth of the statements he made during his guilty plea hearing.

Given Applicant's burden of proof and the analysis to be applied to this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such. Respondent submits that the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding the voluntariness of the plea may raise questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper, 279 S.C. 264, 305 S.E.2d 247.

V.

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

VI.

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

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

JOHANNA C. VALENZUELA
Senior Assistant Deputy Attorney General

LINDSEY A. McCALLISTER
Assistant Attorney General

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

213, 2017

By: 
ATTORNEYS FOR RESPONDENT

STATE OF SOUTH CAROLINA)
)
 COUNTY OF MARION)
)
 PATRICK DAVID VAUGHN, # 360996)
)
 Applicant,)
))
 vs)
))
 STATE OF SOUTH CAROLINA,)
)
 Respondent,)
 _____)

IN THE COURT OF COMMON PLEAS

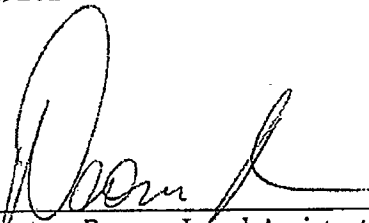
2016-CP-33-0324

AFFIDAVIT OF SERVICE BY MAIL

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

Jonathan D. Waller, Esquire
Giese Law Firm
1315 Blanding Street
Columbia, SC 29201

DATED this the 3rd day of February, 2017.



 Deonna Rogers, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
)
 COUNTY OF MARION)
)
 Patrick David Vaughn, #360996,)
)
 Applicant,)
)
 Vs.)
)
 State of South Carolina)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 TWELFTH JUDICIAL CIRCUIT

**AMENDMENT TO APPLICATION FOR
 POST CONVICTION RELIEF**

Case No. 2016-CP-33-0324

Applicant, by and through his Attorney, Jonathan D. Waller, Esquire, would amend his Application for Post Conviction Relief filed on May 17, 2016, by adding the claims of ineffective assistance of to question 10 and by adding the following specifics to his original allegations:

1. As to representation rendered by Vick Meetze, Esquire:
 - a. Counsel was ineffective for failing to provide or review an entire copy of Applicant’s Rule 5/Brady materials rendering his guilty plea involuntary.
 - b. Counsel was ineffective for failing to conduct a complete investigation into the facts and circumstances surrounding Applicant’s case, rendering Applicant’s plea involuntary.
 - c. Counsel was ineffective for failing to discuss potential defenses with Applicant, rendering Applicant’s plea involuntary.
 - d. Counsel was ineffective for failure to ensure Applicant had a complete understanding of the constitutional rights that Applicant was waiving by pleading guilty.

- e. Counsel was ineffective for failure to investigate the facts and circumstances surrounding Applicant's statements to law enforcement for potential defense as a result of coercion by law enforcement.

Respectfully submitted,



Jonathan D. Waller
Waller Law Group
1116 Blanding Street
Suite 2B
Columbia, South Carolina 29201
ATTORNEY FOR APPLICANT

January 23, 2018

Columbia, South Carolina

State of South Carolina)	Court of Common Pleas
)	Twelfth Judicial Circuit
County of Marion)	Case No. 2016-CP-33-00324
)	
)	
Patrick David Vaughn,)	
)	
Applicant,)	
)	
-vs-)	Transcript of Record
)	
)	
The State of South Carolina,)	
)	
Respondent.)	
)	

February 1, 2018
 Florence, South Carolina

B E F O R E:

The Honorable Michael G. Nettles, 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

I N D E X

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1 FEBRUARY 1, 2018

2 (WHEREUPON, the proceedings began at 11:30 a.m.)

3 THE COURT: Mr. Waller?

4 Well, Ms. McCallister, you're recognized, if you can
5 call the case and put the necessary procedural history on the
6 record.

7 MS. MCCALLISTER: Thank you, Your Honor. This is
8 Patrick David Vaughn versus the State of South Carolina,
9 2016-CP-33-0324.

10 Your Honor, Mr. Vaughn was indicted in November of 2014
11 by the Marion County Grand Jury for one count of armed
12 robbery, one count of possession of a weapon by a convicted
13 felon, and two counts of pointing and presenting a firearm.
14 He was represented by Vick Meetze on those charges.

15 And on August 5th, 2015, he appeared before the Hon.
16 William H. Seals and pleaded guilty to armed robbery pursuant
17 to an agreement with the State for a negotiated sentence of
18 20 years and dismissal of the remaining indictments. Your
19 Honor, he did not appeal his conviction or his sentence.

20 He did file this post-conviction relief application on
21 May 17th, 2016, and he is represented in this action by
22 Jonathan Waller. And both Mr. Vaughn and Mr. Waller are
23 present today.

24 THE COURT: All right. Mr. Waller, you're recognized.

25 MR. WALLER: Thank you, Your Honor.

1 Your Honor, Mr. Vaughn filed his application for post-
2 conviction relief. After meeting with him and investigating
3 the case myself, I filed some amendments to that application.

4 Your Honor, today we will be proceeding forward with the
5 allegations:

6 That counsel was ineffective for failing to provide
7 or review an entire copy of applicant's Rule 5 and Brady
8 materials with him, rendering his plea involuntary.

9 That counsel was ineffective for failing to conduct
10 a complete investigation into the facts and circumstances
11 surrounding applicant's case, rendering his plea involuntary.

12 That counsel was ineffective for failing to discuss
13 potential defenses with applicant, also thus rendering his
14 plea involuntary.

15 An allegation that counsel was ineffective for
16 failing to ensure that applicant had a complete understanding
17 of the constitutional rights he would be waiving by pleading
18 guilty.

19 And finally, Your Honor, that counsel was
20 ineffective for failure to investigate the facts and
21 circumstances surrounding applicant's statements to law
22 enforcement for a potential defense as a result of coercion
23 to obtain those statements.

24 THE COURT: All right. You may call your first witness.

25 MR. WALLER: Thank you, Your Honor. I would call

PATRICK DAVID VAUGHN - DIRECT BY MR. WALLER

1 Patrick Vaughn.

2 THE COURT: Mr. Vaughn, please come forward. I'm going
3 to ask you, if you could, to watch your step. There is a
4 step down there. Place your left hand on the Bible and raise
5 your right hand as the clerk administers the oath.

6 THE CLERK: Do you swear or affirm that the testimony
7 you give will be the truth, the whole truth, and nothing but
8 the truth, so help you God?

9 THE APPLICANT: Yes, ma'am.

10 THE CLERK: Thank you.

11 THE COURT: Have a seat in the witness chair, please,
12 sir, and pull up real close to that microphone and speak
13 loudly, clearly, and slowly in order that we can hear
14 everything that you have to say, and let's start with your
15 full name and spell the last.

16 THE APPLICANT: Patrick David Vaughn, V-a-u-g-h-n.

17 THE COURT: All right. Might I have a packet?

18 MS. MCCALLISTER: Oh, I'm sorry. I didn't hand it up.
19 I apologize, Your Honor.

20 THE COURT: Mr. Waller?

21 MR. WALLER: Thank you, Your Honor.

22 PATRICK DAVID VAUGHN, being
23 first duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. WALLER:

PATRICK DAVID VAUGHN - DIRECT BY MR. WALLER

- 1 Q: Good morning, Mr. Vaughn. How are you today?
- 2 A: I'm all right, sir.
- 3 Q: All right. Mr. Vaughn, you were arrested for an armed
4 robbery; is that right?
- 5 A: That's correct.
- 6 Q: And some other charges related to that?
- 7 A: Correct.
- 8 Q: Okay. And who was your attorney in this case?
- 9 A: Mr. Vick Meetze.
- 10 Q: Okay. And this -- this took place in Marion; is that
11 right?
- 12 A: Yes, sir.
- 13 Q: Okay. How did Mr. Meetze come to be your lawyer?
- 14 A: Because I didn't have the funds to get a paid lawyer at
15 the time, so I was provided with him by the State.
- 16 Q: Okay. He's a public defender?
- 17 A: Yes, sir.
- 18 Q: Okay. And when you were first arrested by law
19 enforcement, you gave a statement; is that right?
- 20 A: Correct.
- 21 Q: Okay. Did you give more than one statement?
- 22 A: Yes, sir.
- 23 Q: Okay.
- 24 A: Do you want me to go in details about it or --
- 25 Q: Well, I will in just a second.

PATRICK DAVID VAUGHN - DIRECT BY MR. WALLER

1 MS. MCCALLISTER: I'm sorry, Your Honor. I didn't hear
2 his answer. You asked did he give more than one statement?

3 MR. WALLER: And he said yes.

4 MS. MCCALLISTER: Yes?

5 MR. WALLER: And then he said do you want --

6 MS. MCCALLISTER: Okay.

7 MR. WALLER: -- me to go into details.

8 MS. MCCALLISTER: Thank you.

9 THE COURT: We're going to ask, you to speak up. You are
10 soft-spoken. Let's talk up just a little bit so everybody
11 can hear you. Okay?

12 THE APPLICANT: Yes, sir.

13 THE COURT: All right. Pull up real close to that
14 microphone. Is it on?

15 THE APPLICANT: It's on, sir.

16 THE COURT: Okay. Good.

17 MR. WALLER: All right.

18 BY MR. WALLER:

19 Q: Mr. Vaughn, I'll come back to your contents of your
20 statements here in just a minute. Did you and Mr. Meetze
21 have a chance to discuss your statements?

22 A: No, sir, not really. The only thing we really spoke
23 about was he said that he have a video. He was telling me
24 that and I was telling him it doesn't even give a -- you
25 can't even tell who the person is is what I'm trying to say,

PATRICK DAVID VAUGHN - DIRECT BY MR. WALLER

1 sir. You can't. It doesn't give a descriptive, you know,
2 identification of who the person is or anything. You just
3 see a person come in and seconds later a person runs out, and
4 I was -- and that's what he was showing me and he didn't --
5 he didn't show me that until one of the last times that I met
6 with him.

7 Q: Okay. And that's the video you're talking about?

8 A: Yes, sir.

9 Q: All right. And just so the judge is clear, the
10 allegations were that there was an armed robbery of a gas
11 station; is that right?

12 A: No, sir.

13 Q: All right. Of a store of some kind?

14 A: Yes, sir.

15 Q: Sorry about that. And the individual who committed the
16 robbery was wearing a mask or something on his face?

17 A: Yes, sir.

18 Q: And he had on all black clothing; is that right?

19 A: Yes, sir.

20 Q: Okay. The individuals that were inside, the victims in
21 the case, the individuals inside were not able to identify a
22 specific person other than how they were dressed; is that --

23 A: Correct.

24 Q: -- right? Okay. And so the video you were just
25 describing shows the person who committed the robbery

PATRICK DAVID VAUGHN - DIRECT BY MR. WALLER

1 leaving, but is not able to identify a specific person?

2 A: Yes, sir. Correct.

3 Q: Okay. Did you have a chance to see the video before you

4 pled guilty?

5 A: No, sir, I did not.

6 Q: Okay. Did you and Mr. Meetze talk about the video?

7 A: No, sir.

8 Q: Okay. You testified a second ago he said that there was

9 a video, so you knew that one existed?

10 A: Yeah, but I never saw it, you know, until I came to

11 prison. That's when I -- he sent the -- he sent it to me and

12 I had a chance to watch it.

13 Q: Okay.

14 A: That was the first time.

15 Q: Okay. So you can't watch -- you can't have a disk or

16 anything in your possession --

17 A: No, sir.

18 Q: --at SCDC; is that right?

19 A: No, sir. I had to go up front to see it.

20 Q: Okay. Now, I want to get back to your statements. When

21 you received a copy of your discovery, your Rule 5 materials,

22 was -- was your statement in those materials?

23 A: No, sir.

24 Q: Okay. How did you ultimately see your statement?

25 A: I never did.

PATRICK DAVID VAUGHN - DIRECT BY MR. WALLER

1 Q: You never did? Did you give a written statement?

2 A: When I first got arrested, when I was -- when I was
3 under YOA, I was at Turbeville for a third-degree burglary.
4 That was before I received this sentence. And a couple --
5 Lt. Graves and Officer Flowers came to interrogate me, asking
6 me questions about this -- this case right here. Also,
7 another case of armed robbery that was thrown out.

8 They was asking me different questions and that's when
9 he asked me did I have anything to do with it. I told him,
10 no, sir, I did not. He said, well, look at these pictures
11 right here. He was showing me different pictures. He was,
12 like, well, do you know who this is? I was, like, no, sir, I
13 don't. He was, like, well, sir, I'm trying to get this case
14 closed. And Officer Graves, which is a close, close family
15 friend of mine who's known me since I was a little kid, he
16 was, like, you know, you know you're my cousin and you know
17 we're family.

18 MS. MCCALLISTER: I'm sorry, Your Honor. I'm -- I'm
19 trying to follow this. I think he's getting into hearsay
20 about what someone else was --

21 THE APPLICANT: Yeah. I was --

22 MS. MCCALLISTER: -- talking to him. So I'm objecting
23 to the hearsay.

24 THE COURT: All right. Sustained. You may rephrase
25 your --

PATRICK DAVID VAUGHN - DIRECT BY MR. WALLER

1 MR. WALLER: All right.

2 THE COURT: -- open-ended question there.

3 MR. WALLER: I apologize, Your Honor.

4 BY MR. WALLER:

5 Q: Mr. Vaughn, when you were first arrested, did you give a
6 statement to law enforcement?

7 A: Yes, sir, I did.

8 Q: The one you were just talking about at Turbeville, was
9 that the first one or the second one?

10 A: That was the first time ever.

11 Q: Okay.

12 A: Yes, sir.

13 Q: Okay. And so the judge is clear, you were on YOA parole
14 at the time you were arrested; is that right?

15 A: Yes, sir.

16 Q: Okay. And your -- and your YOA was revoked?

17 A: Yes, sir.

18 Q: Because of the -- because of the arrest?

19 A: Yes, sir.

20 Q: Okay. So you were sitting back in Turbeville?

21 A: Yeah. That was the first time I ever went to
22 Turbeville.

23 Q: Okay.

24 A: Yes, sir.

25 Q: But it was a suspended YOA?

PATRICK DAVID VAUGHN - DIRECT BY MR. WALLER

1 A: Yes, sir.

2 Q: Okay. And you gave a statement to you said three
3 officers?

4 A: Two officers, sir.

5 Q: Two officers?

6 A: Yes, sir.

7 Q: And one of them was related to you?

8 A: Yes, sir.

9 Q: Okay. Did you and Mr. Meetze ever have a chance to
10 discuss that statement?

11 A: No, sir, not at all.

12 Q: Did you bring it up to him?

13 A: Yeah, I did. I did.

14 Q: Okay.

15 MS. MCCALLISTER: I'm sorry. I still didn't hear that.
16 Was that a yes or a no?

17 THE APPLICANT: Yes, sir.

18 MR. WALLER: He said he did.

19 THE APPLICANT: I said yes, ma'am.

20 MS. MCCALLISTER: Okay.

21 MR. WALLER: Are you sure this microphone is on?

22 THE COURT: I don't think it is.

23 MR. WALLER: It's not.

24 THE COURT: I don't know how you turn it on.

25 MR. WALLER: There's a switch, I believe.

PATRICK DAVID VAUGHN - DIRECT BY MR. WALLER

1 THE COURT: There's a switch over here somewhere. Do
2 you know how to turn it on? Is there a button on it?
3 There's our tech man.

4 THE BAILIFF: It ain't working, Judge.

5 THE COURT: All right. You're going to have to just
6 talk up.

7 THE APPLICANT: All right.

8 THE COURT: Let's talk up so that lady in the back can
9 hear you. Okay?

10 THE APPLICANT: All right.

11 BY MR. WALLER:

12 Q: All right. So what I asked was if you and Mr. Meetze
13 ever discussed the statement you gave to law enforcement?

14 A: No, sir, we did not.

15 Q: Okay. You told him you gave one, but y'all didn't
16 discuss the contents; is that right?

17 A: No, sir.

18 Q: Okay. You didn't tell him you gave one?

19 A: No. I'm saying, no, we did not discuss the contents of
20 it.

21 Q: Okay. Did you tell him that one of the investigators
22 was related to you?

23 A: No, sir. I never went in details because we never
24 discussed it.

25 Q: Okay. Did you ever receive any discovery materials

PATRICK DAVID VAUGHN - DIRECT BY MR. WALLER

1 about your case?

2 A: In the county jail, I did.

3 Q: Okay.

4 A: But it wasn't --

5 Q: Was it everything?

6 A: No, sir.

7 Q: Do you know what was missing?

8 A: My transcripts, evidence like DNA, forensic, eyewitness.

9 There was statements. There was none. None of that was in

10 there.

11 Q: Do you know if any of that existed in your case?

12 A: At that time, I did not. No, I didn't.

13 Q: Okay. You found out later it did exist?

14 A: Yes, sir.

15 Q: Okay. So that wasn't provided to you?

16 A: No, it wasn't.

17 Q: Okay. Did you and Mr. Meetze ever have a chance to

18 discuss any potential defenses that you might have?

19 A: No, sir, we did not.

20 Q: Okay. Did you ask him about it?

21 A: Yes, sir. But all he was doing was pressuring me to

22 take a plea.

23 Q: Okay. How about any investigation you wanted him to

24 conduct? Did you ask him to look into anything?

25 A: Yes, sir. I was telling him that -- that I had an alibi

PATRICK DAVID VAUGHN - DIRECT BY MR. WALLER

1 witness in my case that knew my whereabouts at the time, and
2 I have spoken with you about this at the time and the only
3 reason they're not here today because they moved and they're
4 not in the state of South Carolina anymore. So they wasn't
5 able to travel to come here. So -- but they did want to
6 come, but they wasn't able to.

7 Q: Okay.

8 A: We didn't -- they wasn't able to.

9 Q: Did you and Mr. Meetze ever discuss your constitutional
10 rights and what you'd be waiving if you pled guilty?

11 A: No, sir, we did not.

12 Q: Okay. All right. Mr. Vaughn, I think I've asked you
13 all the questions that I have for you. Is there anything you
14 think I've left out that the judge needs to be aware of of
15 Mr. Meetze's representation of you?

16 A: That's -- that's pretty much it, sir.

17 Q: Okay.

18 MR. WALLER: Thank you, Mr. Vaughn. Answer any
19 questions Ms. McCallister has.

20 THE COURT: Ms. McCallister, you're recognized.

21 MS. MCCALLISTER: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. MCCALLISTER:

24 Q: You testified just a second ago that you and Mr. Meetze
25 never test -- or never talked about your constitutional

PATRICK DAVID VAUGHN - CROSS BY MS. MCCALLISTER

1 rights and what you would be giving up when you pleaded
2 guilty?

3 A: I did say that. Yes, ma'am.

4 Q: That's -- that's your testimony?

5 A: Correct.

6 Q: Okay. Do you recall talking about that issue with the
7 plea judge at the time of your plea?

8 A: Do I recall that? No, ma'am. I didn't know anything
9 about any constitutional rights.

10 Q: Okay. So you weren't -- you weren't put under oath and
11 you didn't give statements telling the trial -- or telling
12 the plea judge that you understood your constitutional rights
13 and you wished to give them up?

14 A: I -- I remember the judge asking me did -- are you
15 satisfied with your counseling and I did tell him yes. At
16 the time, I said I was -- I was satisfied because I didn't
17 have -- at the time, I thought that I was satisfied, but now
18 with the knowledge I know now, I wasn't.

19 Q: Okay. And do you remember -- do you remember telling
20 the judge that you -- you wished to plead guilty?

21 A: I did.

22 Q: You wanted to accept --

23 A: I did say that, ma'am.

24 Q: You did say that?

25 A: I did say that.

PATRICK DAVID VAUGHN - CROSS BY MS. MCCALLISTER

1 Q: Okay. But you don't remember -- you don't specifically
2 remember the trial -- the plea judge telling you you could
3 have a trial and it could be -- you know, you could have --
4 examine witnesses and put up a defense? You don't -- you
5 don't remember that?

6 A: No, ma'am. Because when I was speaking with Mr. Meetze,
7 the first couple times I spoke with him, I did tell him I
8 wanted -- I wanted to go to trial and he was telling me --
9 because there were two armed robberies, the other was thrown
10 out, ma'am, and he was telling me you better take this plea.
11 I promise you're not going to see daylight for a long time.
12 And I was telling him I wanted to go to trial.

13 Q: Okay. Okay. I'm asking you about the plea judge. Do
14 you remember the plea judge talking about any of those
15 issues?

16 A: I mean at the time, no, ma'am, I don't.

17 Q: Okay. You just don't remember it?

18 A: No.

19 Q: Okay. And you said you told Mr. Meetze that you had an
20 alibi witness?

21 A: Yes, ma'am, I did.

22 Q: Is that right? Okay. Do you know if he -- if he
23 followed up on that alibi witness at all?

24 A: I'm not sure because we never spoke about it again.

25 Q: Okay. You never asked him anything about it?

PATRICK DAVID VAUGHN - CROSS BY MS. MCCALLISTER

1 A: No, ma'am.

2 Q: Okay. Did you give him anything else you wanted to --

3 you wanted him to do or look into?

4 A: Yes, ma'am.

5 Q: What did you ask him to do?

6 A: My mental health history.

7 Q: I'm sorry?

8 A: My mental health history.

9 Q: You asked Mr. Meetze to get your mental health records?

10 A: Yes, ma'am.

11 Q: Okay.

12 A: And my -- my mom had also spoke with him. She called

13 the Public Defender's Office and spoke with him and then also

14 Ms. Sloan and told him about, you know, that she was worried

15 about me because I was having crisis --

16 Q: Okay.

17 A: -- while I was in. Yes, ma'am.

18 Q: Okay. So the two -- the two things that you

19 specifically asked Mr. Meetze to do were look into an alibi

20 witness and get your mental health records?

21 A: Yes, ma'am.

22 Q: And that's -- did you tell him to do anything else?

23 A: No.

24 Q: Okay. Okay. And your -- this statement that you're

25 talking about, your testimony is that at the time you were

PATRICK DAVID VAUGHN - CROSS BY MS. MCCALLISTER

1 arrested on this armed robbery, you were out on YOA parole;
2 is that right? Or you were --

3 A: No, ma'am. I went -- I went from -- I went from the
4 county jail to the -- to the YOA and then -- and then I came
5 back to the county jail and was sentenced on this.

6 Q: Okay.

7 A: Yes, ma'am.

8 Q: I'm sorry. Okay. So you had a YOA charge?

9 A: Yes, ma'am.

10 Q: But you were -- you were out on the --

11 A: Yes, ma'am.

12 Q: -- YOA charge at that time of your arrest?

13 A: Probation. I had probation.

14 Q: Probation?

15 A: Yes, ma'am.

16 Q: Okay. And the arrest on this charge triggered your YOA
17 sentence to be revoked; is that correct?

18 A: Because I violated my probation. Yes, ma'am.

19 Q: Okay. So you were sent to Turbeville? That's when you
20 were sent to Turbeville?

21 A: Yes, ma'am.

22 Q: Okay. And your -- and your testimony here today is that
23 while you were in Turbeville, you gave a statement to three
24 police officers?

25 A: It was two officers. Yes, ma'am.

PATRICK DAVID VAUGHN - CROSS BY MS. MCCALLISTER

1 Q: About this --

2 A: Yes, ma'am.

3 Q: -- armed robbery incident?

4 A: Yes, ma'am.

5 Q: Not about your YOA or anything else?

6 A: No, ma'am. About this right here.

7 Q: Okay.

8 A: Yes, ma'am.

9 Q: And I think your -- your testimony was that they asked

10 you some questions about it and you denied your involvement;

11 is that right?

12 A: Yes, ma'am, I did.

13 Q: Okay. And you say that you and Mr. Meetze never -- you

14 didn't really discuss that?

15 A: Not about the statement that I wrote at Turbeville, no,

16 ma'am.

17 Q: Okay. So you -- you told -- but did you ever tell him

18 that you had written a statement?

19 A: Yes, ma'am. Well, actually, I felt as though he was

20 aware of that at the time because he did know that I -- that

21 I did write a statement. He do know that I did write a

22 statement because --

23 Q: Well, how did he know that?

24 A: Because we have -- we have spoken about it one time.

25 Q: Okay.

PATRICK DAVID VAUGHN - CROSS BY MS. MCCALLISTER

1 A: But after that, it never brought -- it never came up
2 again because I told him when I -- while I was at Turbeville
3 about Officer Graves and Officer Flowers did interrogate me
4 and they were asking me different questions, you know --

5 Q: Okay.

6 A: -- about this case. I did say -- I did say that to him.

7 Q: Okay. Did you ever ask him, hey, where's that
8 statement? Where's a copy of that statement that I gave?

9 A: No, ma'am, I did not.

10 Q: Okay. So you never followed up with him on it?

11 A: No, ma'am.

12 Q: Okay.

13 MS. MCCALLISTER: I think that's all the questions I
14 have for him.

15 THE COURT: Any redirect?

16 MR. WALLER: Nothing further, Your Honor.

17 THE COURT: You may step down. Thank you, sir.

18 THE APPLICANT: Thank you.

19 THE COURT: All right. You may call your next witness.

20 MR. WALLER: Nothing further from the applicant, Your
21 Honor.

22 THE COURT: Ms. McCallister?

23 MS. MCCALLISTER: We would call Vick Meetze.

24 THE COURT: Mr. Meetze, I'll remind you that you're
25 still under oath. Have a seat in the witness chair.

WILLIAM "VICK" MEETZE - DIRECT BY MS. MCCALLISTER

1 MS. MCCALLISTER: Thank you.

2 WILLIAM "VICK" MEETZE, being
3 previously duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. MCCALLISTER:

6 Q: Mr. Meetze, can you just sort of summarize the
7 allegations in this case against Mr. Vaughn?

8 A: The allegations are that on this particular day Mr.
9 Vaughn went to Bridgers Drugstore. Bridgers Drugstore is
10 located on Main Street in Marion, South Carolina. A lot of
11 the stores on Main Street, Bridgers Drugs included, has a
12 front entrance that would be the Main Street entrance and
13 also has a back entrance. There's -- there's ways to drive
14 and navigate automobiles behind. There's parking lots behind
15 a lot of these stores and things like that.

16 Anyway, the allegation is that Mr. Vaughn went into
17 Bridgers Drugstore with a mask on, had a gun, used that gun
18 to force employees of the drugstore to give him money. There
19 were a number of employees. The first one indicated that she
20 felt something on the back of her neck. When she turned
21 around, she realized it was a gun and there was a man there
22 with a gun demanding money.

23 There were other folks that were in the store but were
24 sort of in the back office that saw this happening and was
25 able to call 9-1-1 during the robbery. So they got in touch

WILLIAM "VICK" MEETZE - DIRECT BY MS. MCCALLISTER

1 with 9-1-1 during it and I guess as -- because it didn't take
2 long. He wasn't in there very long.

3 Anyway, dispatch, based on the 9-1-1 call, sent out a be
4 on the lookout or whatever it was for the situation going on
5 at Bridgers. A Marion City police officer was in the area
6 and was headed that way and headed in the areas behind the
7 Main Street stores.

8 As the individual ran out the back of the store, which
9 was the same door that the individual had come in on, Mr.
10 Cribb saw him fleeing and basically arrested him right there.
11 Had the gun -- I mean had the, I think, items, mask, and
12 different things like that, and it was basically caught
13 almost immediately after it happened.

14 Q: Okay.

15 A: He was taken into custody and he gave a statement to law
16 enforcement that was video recorded. He gave it to Capt.
17 Cindy Barr. That's the only official statement I'm aware of
18 in this case.

19 Q: Okay. You said that tape -- that was video recorded?

20 A: Correct.

21 Q: And did you receive a copy of that video?

22 A: I did.

23 Q: And did you review that video?

24 A: I did.

25 Q: Okay. And did -- did you review it -- were you able to

WILLIAM "VICK" MEETZE - DIRECT BY MS. MCCALLISTER

1 give it to Mr. Vaughn so he could view it?

2 A: I didn't. I didn't give him a copy of it. We gave him
3 the discovery, all the paperwork. I went down to the jail to
4 show it to him and when we started playing it and listened to
5 it for a little bit and he no longer wanted to hear the rest
6 of it. So he said I can turn that off and I asked him if he
7 needed to see anything else that I had brought to show him,
8 and he said no.

9 Q: Okay. Okay. And so that statement -- that video
10 statement I think you just said is the only statement that
11 you're aware of?

12 A: Yes.

13 Q: Okay.

14 A: As far as official statement. I'm not aware of any
15 written statement or anything like that.

16 He had told me that he had been talked to by this
17 Officer Graves, who was sort of a friend of the family and
18 things like that, but that he never indicated to me that that
19 was done in Turbeville. I was just assuming that was
20 something that was done there at the police department when
21 he was first arrested.

22 He never told me that -- that Graves and Lt. Tony
23 Flowers went to Turbeville to see him and talk to him there.
24 And there was nothing in the discovery with regards to any
25 written statement he had made or any conversation that law

WILLIAM "VICK" MEETZE - DIRECT BY MS. MCCALLISTER

1 enforcement had with him there in Turbeville or anything like
2 that.

3 Q: Okay. If he had told you about that, what would you
4 have done on that issue?

5 A: I would have asked to receive a copy of whatever written
6 statement that he -- he made.

7 Q: Okay. Okay. You've testified that you went and you
8 took him the discovery that you had and started -- tried to
9 review that with him; correct?

10 A: The disk.

11 Q: Okay.

12 A: We -- anybody that we have in jail that doesn't bond
13 out, as soon as we get the discovery materials in a case, our
14 paralegal in Marion, Ms. Molly Sloan, makes a copy of that,
15 puts it in an envelope, and sends that all to the jail, and
16 then she makes a notation on the file that Rule 5 has been
17 sent and the date that it was sent.

18 And in this case, the Rule 5 was received and sent to
19 Mr. Vaughn on -- it says 4/15. So I don't know if that's --
20 I would guess that's April the 15th. I don't think the 15
21 would be the year.

22 Q: Okay.

23 A: But I think it was sent on April the 15th.

24 Q: Okay. And did you discuss with Mr. Vaughn at that time
25 or anytime his constitutional rights, his right to go to

WILLIAM "VICK" MEETZE - DIRECT BY MS. MCCALLISTER

1 trial, the possibility of taking a plea?

2 A: Yes. We discussed that.

3 Q: Okay. Do you feel in your opinion based on your
4 conversations with him was Mr. Vaughn aware of the rights
5 that he was waiving in order to enter his guilty plea?

6 A: Yes. I mean prior to entering a guilty plea, I go over
7 with all of my clients in detail all of their rights and make
8 sure they understand them before I move forward with anything
9 else or we move forward with anything else. So certainly
10 prior to his plea, he was -- I went over in detail with him
11 all of his rights, all of the consequences of his plea prior
12 to him entering his plea.

13 Q: Okay. And whose decision was it for him to enter a
14 plea?

15 A: It was his decision, but certainly I will say that I did
16 advise him that I thought that was in his best interest.

17 Q: Okay. Do you recall -- do you recall ever discussing
18 potential defenses with him?

19 A: No.

20 Q: Okay. Do you recall --

21 A: There --

22 Q: -- him telling you he had an alibi?

23 A: I do not.

24 Q: Okay.

25 A: And like I said, he was caught right in the immediate

WILLIAM "VICK" MEETZE - DIRECT BY MS. MCCALLISTER

1 flee from the store --

2 Q: Okay.

3 A: -- and was taken down and he gave the recorded statement
4 to the police that he was on probation and didn't have money
5 to pay his probation officer and --

6 Q: Okay.

7 A: -- robbed the store to get money to pay Lillianne [ph]
8 Sanders.

9 Q: So in your opinion once you had reviewed the discovery
10 and the evidence, did he really have a defense to these
11 charges?

12 A: No. I did not see any defenses he had.

13 Q: Okay. And did you tell him that? Did you give him that
14 opinion?

15 A: Yes, I did.

16 Q: Okay. The video -- the statement that was on video that
17 you -- the one that you were aware of, was there any
18 indication once you reviewed that video that that statement
19 was coerced or involuntary?

20 A: No.

21 Q: Okay.

22 MS. MCCALLISTER: Your Honor, I think that's all the
23 questions I have for Mr. Meetze.

24 THE COURT: Mr. Waller?

25 MR. WALLER: Just briefly, Your Honor.

WILLIAM "VICK" MEETZE - CROSS BY MR. WALLERCROSS-EXAMINATION1
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BY MR. WALLER:

Q: Mr. Meetze, you testified that you knew he had talked to Officer Graves and the other officer, but you didn't know any of the details of it. You thought it was just right when he had gotten arrested?

A: That's right. I said that. He -- and I guess I'll explain further. He had told me that he talked to this Lt. Graves. Lt. Graves had gotten him -- I remember it sort of as him being alone with Lt. Graves, but maybe I misunderstood that part because it doesn't sound like that's what he testified here to today.

And that he talked to me -- that -- and that conversation was that Lt. Graves had sort of coerced him into admitting this offense, but, you know, I didn't have any evidence of that and, again, there was -- I thought the evidence in this case was overwhelming.

Q: Okay. Did you ever -- was Lt. Graves part of his videotaped statement?

A: No.

Q: Okay. Did you ever reach out to Lt. Graves to see what the contents of Mr. Vaughn's statement was to Lt. Graves?

A: I did not.

Q: Okay.

MR. WALLER: I beg the Court's indulgence.

WILLIAM "VICK" MEETZE - REDIRECT BY MS. MCCALLISTER

1 THE COURT: Yes.

2 MR. WALLER: Nothing further.

3 Thank you, Mr. Meetze.

4 THE COURT: All right.

5 MS. MCCALLISTER: May I redirect, Your Honor?

6 THE COURT: Pardon?

7 MS. MCCALLISTER: May I redirect, Your Honor?

8 THE COURT: You may.

9 MS. MCCALLISTER: Thank you.

10 REDIRECT EXAMINATION

11 BY MS. MCCALLISTER:

12 Q: Okay. So just to clarify on this issue of Officer
13 Graves, I think your testimony is you believe that happened
14 on the day of his arrest?

15 A: That was the impression I got --

16 Q: Okay.

17 A: -- from what he was telling me.

18 Q: Okay.

19 A: I was just making that assumption because he never -- he
20 definitely never told me anything about being visited by
21 Marion City authorities while he was serving his Youthful
22 Offender Act sentence --

23 Q: Okay.

24 A: -- or anything like that.

25 Q: Okay.

WILLIAM "VICK" MEETZE - REDIRECT BY MS. MCCALLISTER

1 A: And certainly, like he testified today, that that was
2 the first statement that he gave. And I didn't look at the
3 date. I reviewed the statement he gave to Capt. Barr on
4 video yesterday and I didn't think to look at the date, but I
5 think that was the first statement because I think that was
6 made before that was revoked and all of that. I think that's
7 the initial time he was given his Miranda. That was the
8 initial time he was talked to about this case.

9 And there were other armed robberies as well and
10 probably half of the statement that's recorded with Capt.
11 Barr was her asking him about other incidents or at least one
12 other incident where somebody who fit the same description
13 wearing the same thing had robbed a Dollar General, which he
14 was also charged with, but that was dismissed as part of this
15 plea.

16 Q: Okay.

17 Q: So, you know, it sounds like a lot -- from his
18 testimony, a lot of what maybe Lt. Flowers and Graves talked
19 to him about at Turbeville may have been in an effort to
20 solve other crimes, but -- other local armed robberies, but I
21 don't know because he never told me they visited him and
22 today is the first time hearing that.

23 Q: Okay.

24 THE COURT: Is there anything -- if that did take place,
25 is there anything that could have transpired in that

WILLIAM "VICK" MEETZE - DIRECT BY THE COURT

1 conversation with the applicant that would have diminished
2 the overwhelming evidence in this case?

3 THE WITNESS: Not in my mind, Judge. I really -- I mean
4 -- I mean I felt sorry for Mr. Vaughn in this case. I mean
5 we -- I mean he -- obviously, he didn't want a 20-year
6 sentence and certainly he made no -- no bones about that, and
7 I understood that and I didn't blame him for that, but the
8 facts in this case in my mind were overwhelming. I don't
9 think there's anything about any -- whatever was talked about
10 in Turbeville that could have changed that.

11 THE COURT: If you were able to get both statements,
12 this non-transcribed statement and the one that was recorded,
13 the physical evidence and the fact that they found him within
14 close proximity to the place, even if you got the statements
15 suppressed, it would still be overwhelming; is that correct?

16 THE WITNESS: In my opinion, Judge, they had a very
17 strong case regardless, independent of any statement he made
18 admitting the offenses.

19 THE COURT: All right. Anything further, Ms.
20 McCallister?

21 MS. MCCALLISTER: No, Your Honor.

22 THE COURT: All right. Mr. Waller?

23 MR. WALLER: Nothing further, Your Honor.

24 THE COURT: You can be seated.

25 THE WITNESS: Thank you, judge.

1 THE COURT: I'll be glad to hear from you, Mr. Waller.

2 THE WITNESS: If you need anything, I've got to run to
3 Family Court.

4 THE COURT: I think you're -- you're free to leave.

5 THE WITNESS: All right. Thank you, Judge.

6 MR. WALLER: Your Honor, the -- the amendments that I
7 filed to this application -- and, Your Honor, if I may
8 approach? I'm not sure if all of them made it into your --

9 THE COURT: Okay.

10 MR. WALLER: -- your packet there yet.

11 Your Honor, the amendments that I filed are pretty
12 specific. I don't believe I need to make any further
13 argument and I'd ask that you just consider the amendments
14 that were filed. Those are the grounds we proceeded on
15 today.

16 THE COURT: Very good. All right.

17 MS. MCCALLISTER: Your Honor, may I just -- on one -- on
18 this last issue about this statement, may I just be heard for
19 very briefly?

20 THE COURT: Yes.

21 MS. MCCALLISTER: Thank you. I just want to point out
22 two things, Your Honor.

23 I think the main thing is that Mr. -- Mr. Vaughn's
24 testimony about that statement is that he denied -- the
25 statement he's saying that Mr. Meetze never investigated or

1 didn't have, he denied doing that statement. I mean he
2 denied doing the robbery in this statement. So I think
3 there's very conflicting testimony, Your Honor, about the
4 time of that statement, the circumstances of it, and actually
5 what even -- what even was said in that statement.

6 RULING

7 THE COURT: All right. With regard to the Rule 5
8 grounds for post-conviction relief, I find that Mr. Meetze
9 did, indeed, gather up all of the evidence, went over all of
10 the evidence with the defendant.

11 He indicated -- he indicated that he played the recorded
12 statement for the defendant until he indicated he didn't want
13 to hear any more about it, perhaps because he knew what the
14 statement said, but nonetheless, I find that Mr. Meetze did,
15 indeed, give full disclosure with regard to the Rule 5
16 materials. He indicated that it was sent out on April the --
17 I mean -- yes, April the 15th of 2015. He has a note of that
18 in the file, a recorded note.

19 I do, indeed, find that based on Mr. Meetze's testimony
20 here today, he had a good working knowledge of the facts and
21 circumstances of the armed robbery for which the defendant,
22 pled guilty. I think it's of particular note that he was
23 found in close proximity to the robbery shortly thereafter
24 and he gave an inculpatory statement thereafter.

25 I think that the -- that Mr. Meetze went over with him

1 the magnitude of the case, the potential penalties, his
2 constitutional rights, and a complete discussion of all of
3 the defenses that he might avail himself of.

4 And Mr. Meetze indicated that he always goes over the
5 constitutional rights of the applicant and, in addition to
6 that, I would note that -- that Judge Seals gave -- in pages
7 2 and 3 of the transcript went over a very, very thorough
8 recitation of his rights to a jury trial and his other
9 constitutional rights to remain silent in a very exhaustive
10 review of his rights.

11 And Mr. Meetze was very clear about the fact that there
12 was no grounds for an argument that the statement that was
13 given was involuntary. It was clear. I think he indicated
14 it was clear there was no coercion involved in that
15 statement.

16 As far as this other statement that might have taken
17 place while he was at Turbeville, it's unclear as to what
18 they were talking about. There were a number of different --
19 a number of different robberies that they were investigating,
20 but the most important thing is even if -- even if they were
21 able to suppress all of the statements, the physical evidence
22 and the fact that he was found shortly after the robbery in
23 close proximity to the drugstore that he, regardless of the
24 issue concerning the statements, it would not have made a
25 difference in the outcome of the case because of the

1 overwhelming evidence against him.

2 As far as any voluntariness -- as far as the statements
3 go, clearly the plea transcript indicates he's giving up all
4 of his constitutional rights. And when you enter a plea, you
5 waive all -- all of those issues.

6 And I'll ask that Ms. McCallister prepare an order to
7 that effect and, once again, give Mr. Waller an opportunity
8 to review it before you send it to me.

9 Any -- anything further from -- from the applicant?

10 MR. WALLER: Nothing further, Your Honor.

11 THE COURT: All right. Well, good luck to you, Mr.
12 Vaughn.

13 (WHEREUPON, the proceedings ended at 12:07 p.m.)

14

15 --- END REQUESTED TRANSCRIPT ---

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FILED

2019 JAN 16 AM 9:52

STATE OF SOUTH CAROLINA
COUNTY OF MARIONMARION COUNTY
CLERK OF COURT
IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT

Patrick David Vaughn, #360996,

C.A. No. 2016-CP-33-0324

Applicant,

ORDER OF DISMISSAL

v.

State of South Carolina,

Respondent.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Patrick David Vaughn (Applicant) on May 17, 2016. Respondent made its Return on February 3, 2017. An evidentiary hearing into the matter was convened on February 1, 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. Vick Meetze (Counsel), 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 Clerk of Court for Marion County. Applicant was indicted at the November 2014 term of the Marion County Grand Jury for one count of armed robbery, one count

of possession of a weapon by a convicted felon, and two counts of pointing and presenting a firearm (2014-GS-43-0402). The charges arose from the robbery of a drug store on Main Street in Marion, SC. There were several employees in the store at the time of the robbery, and the employees in a back room were able to call 911 as the robbery was in progress. Law enforcement arrived on the scene and saw a man matching the suspect's description, subsequently determined to be Applicant, run out the back door of the store. Applicant was apprehended in the back parking lot carrying a backpack containing a gun, a ski mask, and money.

Applicant was represented by Counsel on these charges. On August 5, 2015, Applicant appeared before the Honorable William H. Seals, Jr. and pleaded guilty as indicted to armed robbery pursuant to an agreement with the State for a negotiated sentence and dismissal of the remaining indictments. Judge Seals sentenced Applicant to the negotiated term of twenty years' imprisonment for armed robbery. Applicant did not appeal his plea or sentence.

ALLEGATIONS

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

1. Conflict of Interest
 - a. "My lawyer and the judge knew the victims in my case."
2. Ineffective Assistance of Counsel
 - a. "There's no forensic evidence that connects me to the case."
3. Involuntary Guilty Plea
 - a. "My lawyer coerced me to take the plea when I wanted a jury trial."

On January 23, 2018, through PCR counsel, Applicant amended his original application to include the following allegations:

1. Counsel was ineffective for failing to provide or review an entire copy of Applicant's

- Rule 5/Brady materials rendering his plea involuntary.
2. Counsel was ineffective for failing to conduct a complete investigation into the facts and circumstances surrounding Applicant's case, rendering Applicant's plea involuntary.
 3. Counsel was ineffective for failing to discuss potential defenses with Applicant, rendering Applicant's plea involuntary.
 4. Counsel was ineffective for failing to ensure Applicant had a complete understanding of the constitutional rights Applicant was waiving by pleading guilty.
 5. Counsel was ineffective for failing to investigate the facts and circumstances surrounding Applicant's statements to law enforcement for [a] potential defense as a result of coercion by law enforcement.

At the hearing, PCR counsel indicated Applicant intended to go forward only on the allegations in his amended application. Therefore, this Court finds the allegations contained in the original application are waived and abandoned. Those allegations are hereby denied and dismissed with prejudice.

SUMMARY OF TESTIMONY

Applicant testified he was arrested on armed robbery and other related charges, and Counsel was appointed to represent him. Applicant testified he gave multiple statements to law enforcement. According to Applicant, his statement was not included in discovery materials, and he has never seen it. Applicant also testified he did not discuss his statement with Counsel, but Counsel told him he had video of the incident. Applicant testified Counsel told him the person on the video is not identifiable, but Applicant did not see the video before he pleaded guilty. Applicant testified he was not arrested in the parking lot of the store, but down the street.

Applicant also testified he had a previous YOA sentence which was revoked as a result of this arrest. According to Applicant, he was sent to Turbeville Correctional Institute as a result, and while he was there, three investigators visited him to ask questions and show him pictures. Applicant testified he was related to one of the investigators, but he never told Counsel that

information. He further testified he told Counsel about the visit and that he had given a statement, but he and Counsel never discussed the contents of the statement.

Applicant also testified he was not provided with a complete copy of items in discovery including DNA and witness statements. Applicant testified he told Counsel he had an alibi witness, but that person had moved out of state. Applicant further testified he and Counsel never discussed defenses because Counsel just pressured him to accept a plea. Finally, Applicant testified he and Counsel never discussed his constitutional rights and what he would be waiving by entering a plea. On cross-examination, Applicant testified he did not recall the judge going over constitutional rights with him during the plea colloquy. Applicant admitted he told the judge he was satisfied with Counsel's representation.

Counsel testified these charges arose from the robbery of a drug store. The store had a front and back entrance, and Applicant entered through the front door wearing a ski mask. Applicant pulled out a gun and demanded money from the employees. According to Counsel, some of the employees were in a back room and were able to call the police while Applicant was still in the store. Law enforcement responded to the scene in time to see a man matching the robber's description flee out the back door of the store. The man, later determined to be Applicant, was apprehended carrying a backpack. Inside the backpack, law enforcement found a gun, a ski mask, and money. Counsel testified Applicant gave a statement to law enforcement admitting to his involvement after his arrest.

Counsel testified the statement was taken by Katherine Barr and was video recorded, and Counsel reviewed the video. Counsel testified he saw no indication the statement was coerced or

involuntary. Counsel further testified he arranged to play the video for Applicant, but Applicant was not interested and did not want to hear the full statement. Counsel testified he was not aware of any written statement given by Applicant. Counsel agreed Applicant told him he had spoken to a different investigator, Investigator Graves, but Applicant did not say he gave a written statement nor that the conversation happened in Turbeville. Counsel testified he would have asked for a copy of the statement if he had known it existed. Counsel also testified he did not reach out to Investigator Graves because there was no evidence the conversation actually took place, and even if the statement(s) had been suppressed, there was still overwhelming evidence of Applicant's guilt.

Counsel further testified his paralegal sends discovery to clients as it is received, and he had a note in his file saying discovery had been sent to Applicant on April 15. Additionally, Counsel testified he reviewed Applicant's constitutional rights with him, as is his usual practice, and he believe Applicant understood his rights and the consequences of accepting a plea. Counsel testified he advised Applicant the plea was in his best interest, but it was ultimately Applicant's decision to enter into it.

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. 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 (4th 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 and reviewed discovery with him. The Court finds credible Counsel's assertion Counsel reviewed the videotaped statement and tried to play the video for Applicant, but Applicant did not want to see it. Further, Counsel's notes reflect Applicant was sent a copy of discovery on April 15.

Additionally, this Court finds credible Counsel's testimony there were no grounds for an argument the videotaped statement was involuntary. Although it is unclear what, if anything, was asked of Applicant at Turbeville, this Court finds even if that conversation might have led to the suppression of all statements, there was still overwhelming evidence of Applicant's guilt. Counsel

testified Applicant was found on the scene just minutes after the robbery had taken place, and the physical evidence recovered in his backpack linked him to the robbery. Further, the guilty plea waived Applicant's right to raise those potential issues or defenses.

Finally, this Court finds Counsel reviewed Applicant's constitutional rights, potential defenses, and penalties with him prior to the plea. Further, the transcript reflects the plea judge engaged in a detailed recitation of Applicant's constitutional rights, including the right to a jury trial and Applicant's right to remain silent, during the plea colloquy. Tr. pp. 2-3.

Accordingly, this Court finds Applicant has failed to meet his burden of proof as to deficiency or prejudice as to any of his allegations. Therefore, the application for post-conviction relief shall be denied and dismissed with prejudice.

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), SCRCP, provides that if Applicant wishes to seek appellate review,

FILED

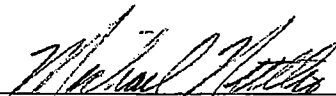
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PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

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.


MICHAEL G. NETTLES
Presiding Circuit Court Judge
Twelfth Judicial Circuit

1-10-, 2019

WITNESSES

Cindy Barr Marion Police Department

Todd Tucker

ARREST WARRANT NUMBER

2014A3320100117 2014A3320100118
2014A3320100119

2014A3320100120

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 11-6-14

VERDICT

True Bill

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-33-00402

The State of South Carolina

County of

MARION

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2014

THE STATE

vs.

PATRICK DAVID VAUGHN

Indictment for

**ARMED ROBBERY,
POINTING AND PRESENTING A FIREARM
(TWO COUNTS),
POSSESSION OF A WEAPON BY A
CONVICTED FELON**

FILED
3:00 PM
NOV -6 P 2:50
MARION COUNTY SC
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
 COUNTY OF MARION)

INDICTMENT FOR
 ARMED ROBBERY,
 POINTING AND PRESENTING A FIREARM
 (TWO COUNTS),
 POSSESSION OF A WEAPON BY A CONVICTED
 FELON

At a Court of General Sessions, convened on NOVEMBER 6, 2014 the Grand Jurors of
 MARION County present upon their oath:

COUNT ONE- ARMED ROBBERY

That PATRICK DAVID VAUGHN did in Marion County on or about April 14, 2014, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of BRIDGERS DRUG STORE from or in the immediate presence of BRIDGERS DRUG STORE with intent to deprive BRIDGERS DRUG STORE of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

COUNT TWO- POINTING AND PRESENTING A FIREARM

That PATRICK DAVID VAUGHN did in Marion County on or about April 14, 2014, point or present a loaded or unloaded firearm, to wit: a silver handgun, at one LAURA REAVES, in violation of Section 16-23-0410, S. C. Code of Laws, 1976, as amended.

COUNT THREE - POINTING AND PRESENTING A FIREARM

That PATRICK DAVID VAUGHN did in Marion County on or about April 14, 2014, point or present a loaded or unloaded firearm, to wit: a silver handgun, at one WILLIAM MERITT ALLEN, III, in violation of Section 16-23-0410, S. C. Code of Laws, 1976, as amended.

COUNT FOUR- POSSESSION OF A WEAPON BY A CONVICTED FELON

That PATRICK DAVID VAUGHN did in Marion County on or about April 14, 2014 knowingly possess or acquire a pistol after having been convicted of a crime of violence defined in Section 16-23-10, S. C. Code of Laws, 2003, as amended, in violation of Section 16-23-0030, 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