THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

J. Derham Cole, Circuit Court Judge

Case No.: 2019-001641

Donald Hamilton Hill, Jr.,..... Petitioner,

vs.

The State of South Carolina.....Respondent.

AMENDED APPENDIX

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STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG)	
The State,)	TRANSCRIPT OF RECORD
)	2009-GS-42-3191,3194,3171,3172,
-vs-)	3174,3173,3175,3188,3190,3166,
)	3167,3168,3169,3170,3038,3186
Donald Hamilton Hill,)	
Jr.,)	
)	June 14, 2010
Defendant.)	Spartanburg, South Carolina

B E F O R E:

HONORABLE J. MARK HAYES, II, JUDGE

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

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Attorney for the Defendant

Margaret A. Woods
Circuit Court Reporter

ORIGINAL

EXHIBITS

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MR. ELLIS: Please the Court, Your Honor, the State calls Donald Hamilton Hill, Jr., Indictment 2009-GS-42-3038 indicted for burglary first degree; Indictment 2009-3166 indicted for burglary first degree; Indictment 2009-3167 indicted for burglary first degree; Indictment 2009-3168 indicted for burglary first degree; Indictment 2009-3169 indicted for burglary first degree; Indictment 2009-3170 indicted for burglary first degree; Indictment 2009-3171 indicted for burglary first degree, Indictment 2009-3172 indicted for burglary first degree; Indictment 2009-3173 indicted for burglary first degree; Indictment 2009-3174 indicted for burglary first degree; Indictment 2009-3175 indicted for burglary first degree; Indictment 2009-3186 indicted for burglary first degree; Indictment 2009-3188 indicted for burglary first degree; Indictment 2009-3190 indicted for burglary first degree; Indictment 2009-3191 indicted for burglary first degree and Indictment 2009-3194 indicted for burglary first degree. Your Honor, each of these indictments have been presented to the grand jury, there is a recommendation from the State in this case of concurrent sentencing. Mr. Larry Crane represents the defendant. Also, Your Honor, I'm handing up an order of restitution in this matter and also a summary I also prepared for this, Mr. Crane and the defendant had been provided a copy of this prior to the plea, Your Honor.

THE COURT: You are Mr. Hill?

THE DEFENDANT: Yes, sir.

THE COURT: Sir, if you would, please raise your right hand and allow the clerk of court to swear you in.

DONALD HAMILTON HILL, JR., having been first duly sworn, testified as follows:

THE COURT: By my count, rough count, that the solicitor announced 15 ---

THE DEFENDANT: Sixteen.

MR. CRANE: Should be 16 there.

THE COURT: --- 16 charges of burglary in the first degree, is that correct, Mr. Ellis?

MR. ELLIS: Yes, sir, 16.

EXAMINATION BY THE COURT:

Q. Alright, Mr. Hill, is that your understanding of the charges that you will be pleading to today to 16 counts of burglary in the first degree?

A. Yes, sir.

Q. Alright. Now, Mr. Hill, if ever during this process today you wish to speak to your lawyer, you just let me know and I'll allow, I I will allow you to talk to your lawyer in private, alright?

A. Okay, thank you.

Q. And, sir, you you are speaking sorta soft ---

A. Okay, I'm sorry.

Q. --- so I need to tell you we are makin' a recording of everything that happens here. The lady over to my right's a court reporter and so when you speak, speak -- please speak up loud enough so that both she and I can hear you and if ever durin' this process at any time if you can't hear me or if you can't hear one of the lawyers or somebody else that's participating in this plea today, immediately let me know and I will speak up or I'll have that person speak up, okay?

A. Yes, sir.

Q. Thank you. How how old are you, Mr. Hill?

A. I'll be 48 July.

Q. How far did you go in school?

A. I went 11th grade, got a GED diploma and I've got probly five years at university, no, I have got no degrees though.

Q. Where you say five years at university, what school?

A. I went to Greenville Technical College, I've been to Wake (phonetic) Technical College and I I attended Clems (phonetic) University.

Q. Are you married? single? divorced? widowed?

A. Yes, sir, I'm married to my wife who's in the audience.

Q. Do ya have children?

A. I have one son, he'll be -- he is 18-years old, lives with my first wife in Raleigh, North Carolina.

Q. Prior to your arrest on these charges did you have a job?

A. No, sir, I've been unemployed since September of 2007 and just things like got out of control.

Q. And when you worked what typa work did you do?

A. I've done everything from, uh, I could do anything. I was -- I sold, erected metal buildings, I was a wedge belt welder, I was environmental, uh, vinyl technician, I was a copy machine technician, I done about everything and I couldn't find a job.

Q. Ever serve in the military?

A. No, sir.

Q. On these particular charges how long have you been in jail?

A. I've been in jail for 13 months, 400 days.

MR. CRANE: May 12th I believe was the day he was arrested in '09.

EXAMINATION BY THE COURT:

Q. That be 400 days?

A. Roughly 395.

Q. H -- sir?

A. Three hundred and ninety-five I think to be ---

Q. Three hundred ninety-five.

A. --- exact, yes.

Q. They, department of corrections likes for me to give them the exact day as opposed to months ---

A. I'm sorry.

Q. --- when they do the calculation. Alright, now, Mr. Hill, within the last twenty-four hours have you consumed any type of substance that is adversely or negatively affecting your ability to understand what we're doing today?

A. No, sir, 'cuz drugs have already put enough badness in my life. I'm sorry.

Q. Have you ever been treated for any type of drug or alcohol or substa -- any typa substance abuse?

A. I've attempted doin' meetings and stuff. I I did go to a program that was unsuccessful.

Q. Where did you do that attempt?

A. I I went to a place in Florence, South Carolina which is at the time when I turned myself in to the authorities I was heading towards 'cuz I knew I was sick.

Q. Would that have been -- did you seek treatment for drugs, alcohol, or both?

A. For for drugs. I was hopelessly addicted to crack cocaine.

Q. Alright, and I take it that you never entered the program or at least did not participate in it long enough for it to be successful?

A. Yes, sir, that's why I was havin' to try to go back and the police called and I had to turn around and do the right thing.

Q. Are ya satisfied with the work of your lawyer?

A. Yes, sir.

Q. Do you feel like you've had enough time to talk to him about the facts that are behind all of these cases, the -- to discuss with him the legal elements of the charges that are against you and also discuss with him any possible defenses you might have to these charges?

A. Uh, I look at the only defense I've got is the defense I took. I mean, as far as I admitted this to the law, I never really knew what I was doing to begin with, all I knew was that I had to come clean in order to be clean and whatever the law states I'm guilty of, I mean, I admitted to everything that I did. The police didn't bring cases to me, I took them to the houses and showed them where I broke in these houses at.

Q. But do, my question goes ---

A. I know your question and I'm sorry I don't -- I can't answer it and I didn't actually answer it correctly. I don't really know the law, I just know that I broke it, so but I'm satisfied that he has explained to me the seriousness of what I face if that makes sense. Now did I answer?

Q. Let me ask another question. You have discussed with your lawyer the facts that are behind these cases ---

A. Yes, that's ---

Q. --- and you, ---

A. --- just the purpose, yeah.

Q. --- and you have discussed with your lawyer the legal elements that the State would have to establish to find you guilty of these charges?

A. I've discussed it with my lawyer and I don't ---

Q. Alright.

A. --- understand some of the elements that the State is prosecuting. I don't know if it's my place to under -- to say something about that, um, I, all I know is I'm guilty of what I did, I don't unders -- I don't think I'm guilty to the severity that the State is prosecuting. I mean, I don't know what else to say about that other than being totally honest.

Q. My -- in order for me to accept your plea I have to make a decision that your plea is a free, voluntary, knowing and intellectual decision by you ---

A. Yes, sir, it is.

Q. --- and I have to be satisfied that you have sought and had counsel from your attorney and that in those discussions you ha -- are satis -- from those discussions you are satisfied with the work that your lawyer has done for you and I want to be sure that you are satisfied with the work that Mr. Crane has done for you in representing you on all of these charges.

A. I am very satisfied with the work Mr. Crane has done.

Q. And I also want to be sure that you do not need or feel that you need more time to talk to him about things such as

the facts that are behind these cases or you need to have him explain to you further the legal elements that the State would need to prove in order to convict you of these charges nor do I want you to feel like you did not have enough time to talk to him about any possible defenses to these charges.

A. Yes, sir.

Q. Do you feel like that you need any additional time with your lawyer to talk about any of those matters?

A. No, sir, I'm I'm I'm satisfied the way things are today, I'm ready to take care of this and move on.

Q. Alright, because if you do I I am not gonna rush it, I will allow you the opportunity to talk to your lawyer.

A. I understand.

Q. Okay.

A. Thank you very much for asking.

Q. Certainly. Has anyone come to you, Mr. Hill, and threatened you in any way or have they made you any promises in order to get you to make the decision to enter the plea to these charges?

A. No, sir.

Q. Has the decision by you to enter the plea to all of these charges has that decision been made freely and voluntarily by you?

A. Yes, sir.

Q. Mr. Hill, I need for you to understand that under the law

you are presumed innocent of every one of these charges and you are entitled to have a jury trial on any or all of these charges.

A. I'm fully aware of that.

Q. At any jury trial that would take place, it is the State that would have the burden of proof and the State would have to convince twelve members of a jury that you are in fact guilty beyond a reasonable doubt of every one of these charges. Now do you understand that?

A. Yes, sir, I do.

Q. And you wish to give up your right to that jury trial on every one of these charges?

A. As I stated previously, I was my own judge and jury on this and I, like I said, I I can't -- I'm just tryin' to get my life straight and I just wanted to get everything I did out in the open and I'm very aware of what I'm facing and I'm ready just, you know, man up is really what it is, is really what I'm doin' is tryin' to man up and, you know, know these people don't like to know somebody's out there that broke in their house and not knowin' who it is and my opinion, you know, is I hope I help gave a little bitta closer, I hope that I was able to help them get some a their property back. You know, I tried to cooperate with the police as much as possible, I, you know, set them up on where I took this property. I just want to, like I say, I just wanna get this

done and behind me, you know, and hope that one day I'll have a chance to make restitution to these people. I did sign that sheet, you know, I'm immensely sorry for what I done so I'm not tryin' to pull any punches for what I did.

(Whereupon, a discussion was held off the record.)

Q. Aright, Mr. Hill, I appreciate your statements to me and I feel that you have expressed a very strong desire to wanna enter these pleas but there are certain factors and decisions that I am called upon to make as part of a plea, not only a plea, I mean, these are the same decisions I have to make not only if it was just a petty larceny or something of that nature but also called upon when it is a burglary first charge ---

A. Yes, sir.

Q. --- and especially when there 19 of -- I I mean, 16 of these charges. I wanna be sure that I do my job ---

A. Yes, sir.

Q. --- in making the decisions that I have to make and I have to have some information concerning those decisions and so I need to be sure that you understand your constitutional rights and that you are giving up all of those constitutional rights ---

A. Yes, sir.

Q. --- freely, voluntarily, knowingly and intellectually giving up those constitutional rights ---

A. Yes, sir.

Q. --- and I am trying to establish that you understand that you are presumed innocent of every one of these charges and that you have a constitutional right to have a jury trial on any or all of these charges and at at any jury trial that would take place the State would have to convince all twelve members of a jury that you are in fact guilty beyond a reasonable doubt of every one of these charges. Now I believe you told me you do understand that you have a right to that constitut -- you have a right to that jury trial ---

A. Yes, sir, I do fully understand.

Q. --- and you wish to give up your right to that jury trial to every one of these charges?

A. Yes, sir.

Q. Mr. Hill, I need to let you know that there are other very important constitutional rights that you are entitled to but that you also have to give up in order to enter a plea to these charges: You have to give up your right to confront and cross-examine the State's witnesses, you also have to give up your right to present evidence which you or your lawyer may feel would establish some typa defense to these charges, you also have to give up your right of subpoena and you have to give up your right to remain silent. Now do you understand all of those constitutional rights?

A. Yes, sir, I do.

Q. And do you wish to give up all of those constitutional rights?

A. Yes, sir.

Q. Alright. Alright, Mr. Hill, if you would, the gentleman that's standing to your right in the dark suit with the red tie is a solicitor, now he is going to give us the facts that are behind these cases.

A. Yes.

THE COURT: Mr. Crane, you have your summary sheet with you?

MR. CRANE: Yes, sir, Judge, I do.

THE COURT: Alright, Mr. Hill, if you would, we will make -- you got a copy for the court reporter?

MR. ELLIS: Yes, sir, she has one.

THE COURT: Alright, we will make this summary sheet an exhibit to this, we'll make the summary sheet an exhibit to this proceeding. The solicitor is going to tell me the facts that are behind these cases. If you would, Mr. Hill, follow along on that summary sheet. I'm gonna ask Mr. Ellis to go slow enough for you to be able to follow and for me to be able to follow as well. Mr. Ellis [sic], if any time you feel like Mr. Hill [sic] is going too fast through these facts or you can't hear him for some reason, let me know immediately, I will have him either slow down or speak up but I will follow along on the summary sheet and if you will as well, Mr. Hill

and Mr. Crane, at this time we will hear from Mr. Ellis.

MR. ELLIS: Thank you, Your Honor. As it relates to Indictment 2009-3038, this occurred April 8th 2009, that day the defendant broke into the home of Quinton Bonner on Bonner which is located at , Moore, South Carolina during the day while Mr. Bonner was at work, Your Honor. The door was damaged in the break-in and the defendant stole a 42-inch television and remote control. Mr. Bonner's insurance covered much of the loss, Your Honor, but he does request $500 in restitution for the insurance deductible.

Indictment 2009-3166 occurred March 10th 2009. On that date the defendant broke into the home of Andy and Stephanie Gray located at in Spartanburg during the day while they were at work, Your Honor. A sliding door was damaged in the break-in, the defendant stole a 50-inch Sony LCD television. Insurance covered all damages and costs including the deductible in that case.

Indictment 2009-3167 this occurred April 12th 2009. The defendant broke into the home of Carlos and Veronica Brown located at in Roebuck, South Carolina while the Browns were not at home. The defendant entered an upstairs bedroom belonging to the Brown's son, stole a PlaySta -- Play -- Splay -- PlayStation 3, a wireless controller and video game, there were no signs of forced entry. Browns they request $699 in restitution.

Indictment 2009-3168 occurred October 27th 2008. On that date the defendant broke into the home of Jason Faulkner located at _____ Roebuck, South Carolina while Mr. Faulkner was gone. Defendant opened, forced open the front door, stole a Vizio LCD television. Mr. Faulkner does not request any restitution.

Indictment 2009-3169 that occurred April 15th 2009. The defendant broke into the home of Phillip Coleman at _____ in Roebuck, South Carolina. The defendant kicked in the front door causing one side of the door frame to separate from the home plus he stole a 37-inch Sony Plasma screen television. Mr. Coleman requests $4,121 in restitution.

Indictment 2009-3170 occurred February 25th 2009. Defendant broke into the home of Joseph and Christina Spellman located at _____ Roebuck, South Carolina while the Spellmans were not at home. Defendant kicked in the front door causing the door frame to split, he also stole a 42-inch Panasonic plasma screen television from the living room and a lockbox containing documents, jewelry and cash was also missing from the master bedroom. Your Honor, the second incident occurred at the home of Joseph and Christina Spellman on December 3rd, 2008, this is referenced in indictment 2009-3171. On that date the defendant broke into their home again at _____ Road in Roebuck, South Carolina. Defendant pried the front door open and stole a 42-inch

Panasonic plasma screen television, a DVD player, a laptop computer, Mrs. Spellman's jewelry box which was in her bedroom was also open and several pieces of jewelry were missing. These two incidents, Your Honor, the Spellmans request $5,000 in restitution.

Indictment 2009-3172 occurred November 19th 2008. The defendant broke into the home of Jessie and Megan Cooper located at , South Carolina while the Coopers were not at home. The defendant forced open the front door and stole a 32-inch Insignia LCD television. Insurance did cover much of that cost, Your Honor, but the Coopers do request $500 for the insurance deductible.

Indictment 2009-3173 occurred January 6th 2009. The defendant broke into the home of Samuel Clark located at , South Carolina while Mr. Clark was not at home. Defendant kicked in the front door damaging the door frame and stole a 46-inch Samsung LCD television. Mr. Clark requests $2,000 in restitution.

Indictment 2009-3174 occurred February 12th 2009. Defendant broke into the home of Caren Hull located at in Moore, South Carolina while Ms. Hull was not at home. She returned to find pry marks on her front door, one of her front windows pried open and the screen removed. The defendant stole a 61-inch Samsung television. Insurance did cover much but not all of the cost. The victim requests

$1,220.95 in restitution.

Indictment 2009-3175 occurred May 11th of 2009. The defendant broke into the home of Raymond Manigan located at [redacted], South Carolina at approximately 8:30 in the morning. Mr. Manigan was at home with his two children ages 4 and 2. Mr. Manigan saw the defendant come through the front window and enter the living room was heading toward the flat screen television. Mr. Manigan and the defendant fought inside the home. Mr. Manigan received an injury to his hand with a screwdriver the defendant was holding. Mr. Manigan stated that the defendant came at him with screwdriver. Mr. Manigan's 4-year-old son was also knocked to the floor at one point during the struggle, Your Honor. Defendant fled the house and drove away. An officer collected blood samples from the dining room wall and buccal swabs were gathered from the defendant following his arrest. A few days later DNA analysis revealed the defendant's blood was present on the wall and the probability of selecting an unrelated individual with that DNA profile is 1 in 61 trillion. Your Honor, but Mr. Manigan does request $800 in restitution.

Indictment 2009-3186 occurred April 1st 2009. The defendant broke into the home of Margaret Stacy located at [redacted] South Carolina while Ms. Stacy was not at home. Defendant pried open the front door damaging the door

and door frame. The defendant stole a 15-inch Sanyo flat screen television. The utility room also had pry marks on the door but no entry was gained to that room. Insurance covered much but not all of the cost, Ms. Stacy requests $758 in restitution.

Indictment 2009-3188 occurred April 24th 2009. The defendant broke into the home of Rose Kelley located at in Moore, South Carolina while Ms. Kelley was gone. Ms. Kelley left a key under her doormat so her brother could check a problem inside the house for her. When she came home, her door was standing open with the key lodged in the lock. The defendant had entered and stolen a 32-inch Samsung flat screen television, several pieces of jewelry. Insurance did cover some but not all of the cost, Ms. Kelley requests $4,053.59 in restitution.

Indictment 2009-3190 also occurred April 24th 2009. The defendant broke into the home of Margaret Potts located at in Moore, South Carolina while Ms. Potts was not at home. Officers responding to the break-in at Ms. Kelley's home noticed the carport door to Ms. Potts' home was standing open and that pry marks were visible around the door. The defendant did not steal anything because as he later said there's nothing he wanted to steal from this house. There is no restitution.

2009-3191 also occurred April 24th 2009. The defendant

broke into the home of Jonathan Landsyerk located at I Court in Moore, South Carolina while Mr. Landsyerk was gone. The defendant pried open the door and stole a frat -- flat screen television and laptop computer, no restitution is requested.

Indictment 2009-3194 occurred March 11th 2009. Defendant broke into the home of Anthony Smith located at [redacted] Drive in Greer, South Carolina while Mr. Smith was gone. Defendant forced open a garage door and a side door and stole a 50-inch Samsung plasma screen television, a remote control, a laptop computer. Insurance covered some, not all of the cost, Mr. Smith requests $2,269.18 in restitution.

Your Honor, each of these crimes did occur in Spartanburg County. The defendant was arrested on May 12th 2009, confessed to each of these crimes, Your Honor.

EXAMINATION BY THE COURT:

Q. Mr. Hill, were you able to hear the solicitor when he gave me the facts behind these cases?

A. Yes, sir.

Q. And were you able to also follow along on the summary sheet that is entitled "Donald Hamilton Hill, Jr."?

A. Yes, sir.

Q. Now do you believe that the solicitor is substantially correct in regards to the facts that are behind these cases?

A. Yes, sir.

Q. Alright, and we will have the exhibit marked as Court's Exhibit 1 to the proceeding. Now, Mr. Hill, do you understand that each one of these burglary in the first degree charges carries a sentence of between 15 years and up to life in prison at the department of corrections?

A. Yes, sir.

Q. And, sir, do you understand that I am not bound by a recommendation made by the State?

A. Yes, sir.

Q. And, sir, do you also understand that each one of these burglary first degree charges has a classification of violent and also a classification of most serious?

A. Yes, sir.

Q. And have you been able to talk to your lawyer as to the consequences and ramifications of these offenses being classified as both violent and also most serious?

A. Yes, I have.

Q. Understanding, Mr. Hill, that I am not bound by a recommendation made by the State, also understanding the possible sentence I could impose on each one of these charges is between 15 years and to life at the department of corrections and also understanding the classification of violent and also the classification of most serious and the consequences and ramifications of those classifications, you still wish to enter these pleas to these charges?

A. Yes, sir.
Q. Alright. Mr. Hill, are you in fact guilty of all 16 of these charges of burglary in the first degree?
A. I am guilty of all 16 charges, yes, sir.
Q. Alright. Have you been able to hear all of my questions?
A. Yes, sir.
Q. Have all of your answers been truthful and honest?
A. Yes, sir.
THE COURT: Discovery has been shared with the defense?
MR. ELLIS: Yes, sir.
THE COURT: Prior record, um, you have a summary of a prior record contained on page 4 of this handout, is that correct?
MR. ELLIS: Yes, sir.
THE COURT: So that is a, he has a 1982 three counts of breaking and entering and two counts of larceny from North Carolina, a 1984 three counts of breaking and entering and two counts of larceny from North Carolina and 19 -- and in 1993 he has six counts of burglary the second degree from North Carolina. Is that the extent of his prior record?
MR. ELLIS: Yes, sir.
THE COURT: We have restitution in the amount of $500 to Quinton Bonner, 9 -- I'm sorry, 699 to Carlos and Veronica Brown; 1 -- 4,121 to Phillip Coleman; 5,000 to Joseph and

Christina Spellman; 500 to Jessie and Megan Cooper; 2,000 to Samuel Clark; 1,220.95 to Caren Hull; $800 to Raymond Manigan; 758 to Margaret Stacy; 4,053.59 to Rose Kelley and 2,269.18 to Anthony Keith Smith. Is there anything else from these victims?

THE COURT: Yes, sir, Your Honor, several of 'em are present in the courtroom today basically in the second and third rows on this (indicating) side of the courtroom, Your Honor. I believe some of them would like to speak.

THE COURT: Alright, be more than happy to hear from them. If they could come up one at a time and...

(Whereupon, a victim came forward.)

THE COURT: Just stand aside the solicitor if you would. Now, sir, we are making a recording of everything that happens here so when you speak, speak up loud enough so that both the court reporter and I can hear you and just start by givin' us your full name if you would.

MR. SMITH: Anthony Keith Smith.

THE COURT: Yes sir, Mr. Smith.

MR. SMITH: I would like for the Court to consider the fact of my family's security has been taken from my children and my wife. My children no longer feel safe in their home. We always said when we got married we would not purchase or have a gun in in our residence for as long as we had children in our house. Since that time and since Mr. Hill's actions we

have decided to purchase a shotgun for defense and we would like for the Court to consider that and also the laptop computer that he stole from us had tax return information on it, therefore it had social security numbers on it so we no longer know whe -- how long it's gonna be before our adendum -- our identity is stolen or if it ever will be so we don't have that that piece of mind and also lots a family pictures were on the laptop that will never be replaced and we would like for you to consider the maximum sentence.

THE COURT: Thank you, sir.

(Whereupon, a victim came forward.)

THE COURT: And if you would just give us your full name and speak up loud enough so that both the court reporter and I can hear you.

MS. MANIGAN: Yes, sir, my name is Brandy Manigan, ---

THE COURT: Yes, ma'am.

MS. MANIGAN: -- I'm speakin' on behalf of the Manigan family which would be me, my husband, my three young children ages 3, 5 and 8. Sir, this man did not take any physical property from my home but he took my childrens' innocence. Day after day, week after week my 5-year-old asks me, Mom why did that man break into our house, mom is that man gonna break into our house again. My children do not feel safe in their home and I've been, on a personal note, I have been battling leukemia, my kids don't ask me about my illness but they ask

me when will this man break into our home again, are we safe, is this man gonna break into our home again. He took my childrens' innocence.

THE COURT: Thank you, ma'am.

(Whereupon, a victim came forward.)

MR. COOPER: Your Honor, my name's Jessie Robert Cooper. I'd like to second the -- what the people before me have said, you know, I, my wife and I were never gone -- gun owners before and both of us have our concealed weapons permit since this has happened and we both carry regularly because our security is gone, you know, he he he stole a TV and that's easily replaceable, insurance covered the damage and, you know, we're out $500 deductible but I I would rather wrote wrote him a check for $500 than than my security be taken away, you know, that it's changed my life forever and and, you know, there's there's people out in the world just like him and and you'll never get 'em all locked away, we'd like to see that that this man never does this to anybody else again, that's all. Thank you.

THE COURT: Thank you, sir.

MR. ELLIS: Anyone else?

UNIDENTIFIED MAN: Yes.

(Whereupon, a victim came forward.)

THE COURT: If you would, ma'am, just give us your full name and speak up loud enough so that both the court reporter

and I can hear you.

MS. KELLEY: My name is Rose Kelly and I just wanna say that he did take away my security and I I still have the doors barricaded at night and sleep with the light on because I can't come home like that anymore.

THE COURT: Thank you, ma'am.

MR. ELLIS: Your Honor, Investigator Letterman from the sheriff's office is here also, he worked several of these cases and I think he'd also like to be heard.

DETECTIVE LETTERMAN: Your Honor, on behalf of the Spartanburg County Sheriff's office, I'm Detective Letterman property crimes division. What I'd like to say is Mr. Hill did cooperate with law enforcement, he did lead us to several TVs that were recovered but in doing that he did only whenever he was in custody. At no point durin' his 16 burglaries did he turn himself into the sheriff's office say I have a drug addiction and I stole all these TVs and I need help. Only after he'd entered the house of Mr. Raymond Manigan in a serious offense bein' involved Mr. Manigan in a fight that he flee at that time but then at that point decided to turn himself in. I believe you've heard from several people it's not the physical evid -- it's not at physical items that were taken that is the serious offense right now, it's the psychological and mental aspects of their lives that he invaded without permission and I believe that's one of the

most heinous crimes so on behalf of the sheriff's office it's our opinion that he be sentenced to the maximum sentence.

THE COURT: Thank you, sir. Anything else from the State on Mr. Hill?

MR. ELLIS: No, sir, Your Honor.

THE COURT: Yes, sir, Mr. Crane.

MR. CRANE: Judge, we have some people that would like to speak, I don't know when you wanna hear them and I don't know how many you will allow to speak for him.

THE COURT: However many that you would like to speak; I I would ask that the defendant go last ---

MR. CRANE: Okay, ---

THE COURT: --- but if he ---

MR. CRANE: --- and and actually I'm gonna probly go after the people speak if that be okay.

THE COURT: Um-hum.

MR. CRANE: Frances, you wanna come up now and speak?

(Whereupon, Ms. Edwards came forward.)

MR. CRANE: When you come up give your name and say what you'd like to say.

THE COURT: Yeah, if you would, just speak up loud enough so that both the court reporter and I can hear you.

MS. EDWARDS: My same is Frances L. Edwards, I'm from Clemson, South Carolina. I teach legal studies at Clemson University and I'm not a practicing attorney. I have

practiced in in Kansas prior to going into business and then in teaching. I've known Iris Hill and Lou, her husband, and the family for a very long time, they're a good family and a very fine one. I worked in a defender's clinic when I was which was a maximum security prisoners in Wentworth Penitentiary and also the state prisoners in the the state penitentiary, I also worked with the -- defended people in a legal aid clinic prior to going into business and then into academics and after this happened I realized that none of those men or women ever were remorseful. They were always sorry they got caught, they were always sorry that they gotten more charges against them even when they owned up to what they did but they were never really re -- remorseful. They just didn't wanna spend time, they didn't wanna do things and the only reason I thought about that is because of Donald and I realized he's truly remorseful. This is a man who will pay restitution whether it is even not required by the Court and he would like not only to help himself but to help other people who are in his situation. Donnie's a very good man. He would do anything for you. If you needed help and were a stranger, he'd do it but when he is on crack cocaine he is not himself and he needs help, a great deal of help, and I would ask leniency from you, that's all.

THE COURT: Thank, you ma'am.

MR. CRANE: Mr. Gorka, would you like to come up?

(Whereupon, Mr. Gorka came forward.)

THE COURT: Just give us your full name when you start if you would.

MR. GORKA: My name is Art Gorka, I am a math professor at Erskine College and I have been a, I have been a friend of Ms. and Iris Hill and their family for over ten years and I I met Donnie after he got out from the previous sentence that he had in 2001 and and I heard it from his mother about his problems with drugs and with law and I imagined a person that was nothing like what I met. I met a person who was intelligent, was bright, who was very much enthusiastic about life, wanted to do a lot of things together, who he he knew a lot of things about math, about computers, we had many discussions about the newest developments in internet, had many a discussion about the universe and he's been very helpful. He's been staying at his mother house doing very positive things for her: repairing, uh, home equipment or broken cars and he always was very positive. He's been looking for job, jobs as a matter of fact, and he he had found some at the time that I could remember and he got married and I could see a a man who was very positive about life, being supportive of his family and wanting to do a positive change compared to what what happened where he couldn't be this man when he was locked away. So for a few years it was exactly like that and then I could see that his visits to his mother's

house would be less frequent, he was looking pale and then I learned that he got back to drugs and had some problems with that again and then I know that he entered this drug rehabilitation program in Florence and I thought that this was a very positive step on his sight that he wanted to make this change but it wasn't long enough and he went back into this problem with drugs again. So I I think that he's a a very good man with a kind heart that has problems related to drugs and I think, I deeply believe that if he's given a chance to go through the rehabilitation, drug rehabilitation process he'll be a valuable addition to society, to his mother, his wife and his kid.

MR. CRANE: Thank you.

MR. GORKA: Thank you.

MR. CRANE: Alright, Mr. Miller.

(Whereupon, Mr. Miller came forward.)

THE COURT: If you would, just start by givin' us your full name.

MR. MILLER: My full name is Larry L. Miller, I am a neighbor of Iris and I met Donnie when he came back from his last problem. He didn't have a job, I actually hired him to do some work around the place. He was very very helpful, he's a very friendly person, he's very kind. I am also a retired teacher and I taught in a juvenile system in the Juvenile Justice System in North Carolina. I had an opportunity there

to see many beginning lifetime criminals, they all blamed the judge, blamed somebody for whatever they did, it was somebody else's fault. Donnie is not blaming anyone. He's taken full credit for everything he's done and he's remorseful. This is a good thing. His drug problem is like many people the source of what's causing all the problems. I think he needs some, a great deal of help in that area, I think that would be very beneficial. I think he has a possibility of being very helpful to society but he needs to address his drug problem. I feel for everyone involved in this case. Like I say, I got to see many people in these typa situations in my previous employment but I I see Donnie as havin' possibility but he does need help.

MR. CRANE: Thank you, Mr. Miller. Iris. Iris. Judge, this is his mother Iris Hill.

(Whereupon, Ms. Hill came forward.)

MS. HILL: My ---

THE COURT: Yes, ma'am.

MS. HILL: --- my name is Iris Hill, I am Don's mother. May I first please say to the victims something? I'm so sorry. I I I'm sorry that my son entered your home, he took things that belonged to you, you didn't deserve that. I know that my son is extreme remorseful and has written each one of you a letter expressing his regret for the atrocious acts and for the tor -- turmoil that he caused in your life. I know

that you feel violated and perhaps unsafe in your own home as a result of his behavior, I'm deeply deeply sorry.

I know how being a victim of a crime feels. When I was teaching at Greenville Tech in the 1960s, I was mugged across the street from Tech. The mugger snatched my purse right off my shoulder and it contained many important things but most importantly it had some irreplaceable pictures and sweet notes from my husband and my children. I have been robbed numerous times, once someone even stole my beautiful champion Rottweiler, Soul Girl, right outta the yard. For days and nights I would call her mournfully. She was the only dog I'd ever loved, the only dog I ever had. I called the radio too and I told 'em please help me get my Soul Girl back. Well about three weeks after she was taken someone identified her and called and the guy who took her owned up to his crime like Donnie did, let me tell you about that. You may think that the police came to the house and surrounded and used bull horns and all that but no, we were on our way driving down 385 South to the the Owl's Nest where I hoped he would stay long enough to get help for a drug problem. As we neared the intersection just south of Woodruff at Highway 101 and 385, Donnie said to me, momma, I just can't get straight until I own up to the the bad things I've done, the terrible wrongs I've committed, he said. He said that he had to come clean if he was ever to have a chance of recovery and he couldn't go to

the Owl's Nest in good conscience for these crimes hangin' over his head, he just didn't think it could -- it would work so he called the Spartanburg Police Department and told them where he was and he told 'em that he'd walk up Highway 101 to meet them and he asked me to please go back home and let him take care of it himself, I think he was afraid I might be hurt. So I drove the 30 or 40 miles back home and when I arrived there was a message on my machine from Detective Moorcroft (phonetic), he said that he couldn't find him so I called, you know, Moorcraft immediately and I told him where he was, they had gone north instead of south on Highway 101 so they hadn't found him but by the time they did find him exactly where he said he'd be, Donnie had walked 6 miles barefoot to meet them. He walked up to a Laurens County Deputy car and told the officers who he was and what he was doing, I'm sure the officers would verify these events, and I'll always be grateful that they took him to the doctor because he had wounds. His eyeballs had -- were pletely bled where I believe it was Mr. Manigan had tried to gouge them out and Donnie had freed himself from Mr. Manigan and and had run to his truck which was out in the street, out on the side of the road and as he was sitting in his truck trying to close the door to leave, Mr. Manigan had stabbed him with a screwdriver. Anyway, my son did not try to hurt anyone. He, it's impossible for him to be violent, he's incapable of

hurting anybody. He is gentle and kind and I've never known him to be capable of violence. Donnie did take the detectives to all the places he had robbed and he told them where they could re -- recover the property and he said that he did this without regret because he had finally seen the awfulness of what crack cocaine had had done to him and to others. For the first time in his life he really wanted to get that monster off his back and somehow try to make up the hurt he caused. I hope you did recover the stuff he took the way I got served Soul Girl back.

Nothing excuses his crimes, nothing but I want to try to explain to you why chu -- why such a sweet, gentle, bright person did these awful things. I wish you would look beyond his crimes for just a moment and see him through his mother's heart. I don't claim that he's a perfect person, we're all flawed but he is such a sweet-natured guy and violence is not part of his personality. He's the type to bring a wounded or lost animal home to or, you know, because he's concerned for its safety. He's always been a loving son who is not embarrassed to show me that he loves me even in public. Every year he makes me a birthday present with his own hands and talents. This year he was in jail but he made me cards by scratching, uh, cut water color out of an M&M candy, piece a candy, and drew a picture of a iris as a matter of fact. If I ever mention anything that I need, he turns up with it

shortly. If he were your neighbor, he'd mow you lawn to surprise you and please you or build a swing for your children. He might find an old winda and make ya a beautiful frame put your favorite photograph in. He's a great cook, he might make you a pie, bring it over. He's very creative and inventive and kind and tender, he's intelligent, he masters complicated tasks easily, he reads voraciously, he has a lot of technological skills in many areas, he's quite handy at fixing things from complicated computers to hardware and software. He's an excellent worker. He's always reliable to be on time and give a day's work for a day's pay. I wish I could have some water, my mouth is so dry, could I please, that I can hardly speak. He's an excellent photographer, thank you, you know that I could be here today watching him receive a prestigious award for an outstanding achievement or I could be here today watching him receive a medal for bravery because he is courageous, instead here I am awaiting a verdict for inexcusable, inexcusable choices, they were wrong, wrong, wrong, wrong, wrong choices. I'm sad to the bone and beyond for all of those whose lives he's he's touched in this way but a vulnerable human spirit swirls around in that detestable cocaine that demanded more and more and more of him. More cocaine meant more money, the desperate craving drove him to insane behavior but I just want you to know that underneath all that confusion is a husband, father, a brother, a friend,

a son who's flawed with addiction. In teaching for 40 years in the community college system I often taught speech and interpersonal communications and how many times have I heard students speak of their struggle to be victorious over drugs and then lose battle after battle after battle. Like Donnie many of them were brought to their knees and many still hungered for this drug, this beast for years after they gained some recovery. It's a beast they say that they hate but in their weakness or sadness or loneliness they call it back, an act of insanity they say but an act that they must struggle with over and over again, sometimes with more strength than they really have. I don't know why my son used drugs. I I think it might have been self-medication. We tried to help him but in trying to help are we really enabling? I think it's hard to know the difference. Maybe only those who have dealt with a drug addiction, be it alcohol or crack, know what I mean. Perhaps he was just too young to cope with his father's death and perhaps I did not see his desperation at that time and did not help him effectively deal with that loss. He was very close to his father Don, Sr. Every Father's Day for 28 years he and I have remembered together his beloved father who died at age 44. Don, Sr. II was an addict, alcohol was his drug of choice. Not long after he died though Donnie went to prison for the first time on drug-related charges. Ten years later Donnie's step-father Lou

Lindsey who he adored had a devastating stroke. Turning again to du -- drugs, Donnie was in trouble again. Then when Lou died in 2008 Donnie once again turned to crack and cocaine, crime. Of course I don't know for sure why he became a drug a -- drug addict but I do know that he never committed a crime that was not drug-related so his effort to to defeat drugs in his life was either not long enough or not strong enough. I smoked for 43 years before I finally managed to quit about a dozen years ago so I do understand addiction to some degree but the cure rate for cocaine is very low. He has given half of his life for these despicable drugs, because of them he stole from you but those same drugs stole his soul when he used them. Those sames dru -- those same drugs stole him from me, from his son, from his wife and from his brother. For someone like him to end up somewhere like this makes me sick, ya'll, sick from here, maybe that's, maybe why it happens it's just unnoble, well I don't know.

Well we we tried to make, those of us who know him, a case for him to go to drug court but we did not prevail in that attempt. I think Mr. Ellis received about 15 letters from people who know Donnie. I think that Donnie agonizes over the wrongdoing and he does feel a deep remorse, it's the first time that I've been convinced that he is sincerely ready to defeat cocaine. While in jail he has been doing everything possible to improve himself and to learn why he became such an

easy prey to crack cocaine when disappointment or disarray came into his life. He's taken Life Skills for 26 weeks under the direction of Ray White and he says it has been helpful in making him look inside himself. He's also been tryin' to help other inmates and he tells them that that if even marijuana is foolish and if they mess with it they gonna maybe end up with a devastating future. I don't know what else I can say. I'm his mother, I love him, I'd give my last breath for him, I'll do his time for him if you let me and let him go get treatment for his problem. A long stay in prison won't do him any good or anybody else, it'll only punish and cost taxpayers a lotta money. I don't know the answer but I have come to believe that punishment just sometimes delays progress or permanently stalls it. Our wonderful country needs to figure out a better way to deal with people's problems. I empathize with the families of addicts and the families of criminals. I honestly don't think a mother could ever be weller than her sickest child and I don't think a mother can be free if even one of her children isn't. I often go to the woods on the 80 acres we live on and I scream until I have no voice left. I scream for him, for you, for me. I'll be 70 in October and I don't think I'll be alive to have him home at the Twelve Mile River for a Mother's Day or Thanksgiving or Christmas. Inside every criminal is a human soul, lost perhaps at times on perhaps at times but this -- by this insidious substance but a soul with

a potential of being as good as he has been evil. Don is almost 50-years-old, I think he has the potential for doing great good in the world, he can still be a productive citizen and the man he was meant to be. Becomin' a drug addict was not what he wanted to be when he grew up, he wanted to be an architect but Mr. Crack stole all those dreams that did not and will not come true. I recently saw the movie "Requiem for a Dream" and I wept at the truth of its message. I've seen Don live that horrible nightmare as he struggled in the power that cocaine held over him, please don't let it cost him the rest of his life. I plead for the mercy of the Court, I pray for leniency, I beg you to forgive him. Thank you. Thank you, Your Honor.

THE COURT: Thank you, ma'am.

MR. CRANE: Patty.

(Whereupon, Ms. Hill came forward.)

MS. HILL: Your Honor, my name is Patty Hill, I'm Donald's wife of eight years. I'd like to say first and foremost that I hate drugs. My brother died just four days ago probably from illegal drug use, it kills people but I think Don still has a chance. His mother said some of the things I'd already planned on sayin' but if you can, go talk to our neighbors, he did. My next-door neighbor was a single mother with four children and he just went over on Mother's Day to cut her grass. He baked pies when people moved in the

neighborhood and he was so kind to me and my son and my family. My mother loves him like her own and had she not just lost her own she would be here to tell you the same. I hate what Don's done, it breaks my heart, for me, for everyone here but he is a good man. He has a terrible disease, he has a terrible disease but I think for the first time he's really really ready, he's really ready to make a change. He and I well we've dreamed even before this of havin' a treatment facility of our own. I understand the family side of the issues and would like to help them because it's no piece a cake bein' us either and that's, that's all I have to say. I mean, he is -- he's not, he's not the pers -- that's not the person I married. These crimes are a despicable drug that's taken over the state, this country and sickens me. I love this man and he is a good man and he can be redeemed, he can and I just pray you'll give him a chance. Thank you.

MR. CRANE: Thank you, Patty.

THE COURT: Thank you, ---

MR. CRANE: Judge, ---

THE COURT: --- ma'am.

MR. CRANE: --- Judge, may it please the Court. As you've heard today of course, he has a lot of community support and family support. I've been dealin' with Don and his mother and Patty for quite some time. I've met with Don in the jail several times. You've been on the bench for

numerous years and we we see people that come in front of you and tell you they're sorry and all that and it's like his mother said they're telling you they're sorry 'cuz they got caught. This fella has always told me that he's sorry for what he did to those people. As a matter of fact, as his mother said, he did write 'em a letter, I don't know how many of them got it, if they didn't get it then we didn't have the right address. I'd be glad to show you the letter but basically, Judge, in a nutshell it starts off by him telling them that, I'm writing this letter to you informally to apologize for everything your home -- for entering your home and stealing from you, what I did was wrong, you have every right to be angry, and they did, of course he asked for their forgiveness in the letter. You heard from I believe three different people whose homes were enter -- entered into and the primary thing that they talked about was not the property that was taken but the fact that their security was taken. Well it just so happens in his second paragraph he ends that by saying he tol -- tells them that he was -- he did this because he was on drugs, he knows it was an atrocious act, he see -- he says it's a very lame excuse to enter your home and take somethin' you worked hard for and leave you with a lost sense a security. He knows what he did, he knows that it was wrong and he knows that they have lost that security that they've had. Nobody likes their house broken into. Every

time I leave and go off on vacation and come home, I'm hopin' mine is not broken into. I've been fortunate not to have mine broken into although my car was broken into and that's enough to make anybody mad so I know what the people are goin' through. He did write them a letter, uh, whether they got it I, I just don't know. He says in the letter exactly like his mother said Don after the entry into Mr. Manigan's home he was in fact they they were lookin' for someone that fit his description, I think a picture was on the TV and he knew they were lookin' for him but he wanted to go and get clean from drugs so like his mother said they started to the Florence treatment center, they're on their way down 385 and Don said to his mother, I I can't do this until I get everything else squared away. He asked her to put her [sic] out which she did, he got in touch with a Laurens County deputy sheriff, they transported him to Spartanburg County line, they took him to jail and he's been there since May 12th. He then got with Detective Letterman, Roughner and I believe Murphy and as Detective Letterman indicated he fully and totally told them about all these other houses. The sheriff's department for Spartanburg County had incident reports of break-ins of all these people houses, however they had no suspect, that there was no evidence that would tie Don Hill to any of those break-ins. The only break-in to which he was tied was Mr. and Ms. Manigans' house. All of the break-ins were durin' the

day, most of them were around the 10 to 11:30 hour in the morning -- excuse me, 8:30 to 10:30. I think Detective Letterman, I I called him today but we didn't have a chance to talk but I think he would tell you, Judge, that what Don would do is go to a house, knock on the door, ring the doorbell to make sure no one was home. With Mr. Manigan's house it's my understanding, I could be wrong, but I think they even heard the door bell ringin' and and someone knockin' but they didn't answer it and he went in, he didn't realize anybody was in there. None a the other houses wasn't anybody in, he made sure that they were vacant. As a matter a fact, I think Detective Letterman asked him about a particular house and he said, Why didn't you go into that house and Don told him that he saw the blinds wiggle a little bit so he didn't go in so he tried to make sure that no one was in there, not that that okays what he did, I'm just sayin' he was tryin' to avoid confrontation. When he went in the houses, Judge, he didn't tear 'em up, he didn't ransack 'em, he didn't go through their drawers, he didn't throw stuff all over, he didn't break things, he took their TVs, their laptops, their PlayStations and on two or three occasions he took some jewelry from a jewelry box but he didn't go through everything like many burglars do, that doesn't excuse what he did either but I'm just tryin' to tell you what type of burglaries they they were and he did all of this while addicted to crack cocaine.

You've heard from his wife, you've heard from his neighbors, I've got a whole handful of letters here, Judge, that I don't need to pass up because some of the people are here. I think Solicitor Ellis will tell you that he received 15 or 20 letters from people tryin' to convince the solicitor's office to allow Mr. Hill to go through drug court. If there's ever been a proper candidate for drug court, he's that person. They chose not to do that and we understand that, it's their decision who goes through drug court and we can't make them go through it. He is an addict and his wife tells me in my talk with her that he's been an addict for over 35 years. He's been on and off. When he's not on, he's a great person; when he is on, he's terrible. It's my understanding that Don went from about what 225?

THE DEFENDANT: 205.

MR. CRANE: 205 down to 180, 175 when he got out on the dope, he just went down to nothin' so it totally changed him, changes every person. You've seen many people that stand before you for things that they've done because they were on drugs and there again it's not an excuse, it's simply an explanation for what happened. He was addicted to the crack cocaine, he chose these houses, many of them in the same neighborhood. He would knock on the doors and go in if they weren't, uh, if no one answered. When he turned himself in he went to jail, he's been there since. I I can't recall if we

had a bond hearing or not but he hasn't been able to make bond. Matter of fact -- do you have bond? I don't think he's even got a bond so he's just been over the jail, we've been talkin' to him on and off and finally got with the solicitor and said, Look, you know, you won't let him go through drug court, it's not a, it's not a trial because in 15 of the 16 burglaries not only did he take the detectives and show them the houses, he'd say, I went into this house, I didn't go to that house, I went into this house and I went into this house twice and he gave statements on all of those break-ins so there's really nothin' to go to trial over. The only possible thing that there was to go to trial over and, Judge, what I will submit to you if you read the indictments you'll see that they've got the total language of the statute that says it's a burglary first because he either; one, entered in the nighttime; two, was armed when he went in or became armed; three, caused injury to someone or; four, has two or more prior convictions for burglary. Well we can't get around that, he does in ha -- in fact have two or more prior convictions for burglary. I would point out that the ones in North Carolina back in the early eighties were house breaking and I quite honestly don't know if those elements are the same as our burglary statute and doin' a little bitta research I don't know that those house break-ins back in the early eighties for which he would've been right around 20 would even

count to enhance, however he does have the burglaries in North Carolina where he entered a guilty plea to I believe six of them -- excuse me, in 1993 so they're they're they're 17-years-old. They are from North Carolina, there have been at least three cases that say out of state burglaries count. There's nothing that I can find that says there's a time limit. It's much like the drugs, if you've been convicted of drugs 50 years ago, it counts as a first offense so I can't find anything that puts a time limit on it but that's the other thing that we're tryin' to convince the solicitor not to do and that is make him plead guilty and I I, that's a bad choice of words, to cause him to plead guilty to burglary first. We kept tryin' to get them to come around and and plead guilty to burglary second because in my mind that's really what it is under the statute 'cuz he went into a dwelling but he went in in the daytime. He didn't steal guns, didn't steal weapons, stole TVs and such so it isn't they're all burglary seconds but for his 17 year old convictions in North Carolina which in fa -- in fact make them burglary first. Now Officer Letterman and I think Roughner and correct me if I'm wrong but actually got warrants for burglary second and it was officer Murphy that had some warrants for burglary first and of course then the solicitor indicted him for burglary first on all of them and we understand that, we understand where we're com -- where they're comin' from. We

chose not to go to trial, there was no way that we could go to trial.

Judge, the other thing that Investigator Letterman touched on that and I, and I certainly need to tell ya when he got arrested, actually when he turned himself in and showed them the various houses, he also took them down, took them where?

(Attorney/client discussion held off the record.)

MR. CRANE: Took them down to Woodruff and showed them the location where he took the stuff to get the money and they recovered a lotta the property, I don't know how much, maybe Detective Letterman can tell me, but it's my understanding they recovered numerous televisions and some of the other stuff. Whether it was given back to the owners I don't know but he did try to cooperate and of course it was after he was arrested. He wa -- he didn't cooperate before he got arrested.

His mother gave you pretty good background of what he went through as a youngster and through his adult years and the battle he's had with narcotics. One of the things that she wrote in one of her letters to me that I wrote down that I thought she would say today when she said to you that he doesn't need to go to jail for the rest of his life because all we're doin' there is institutionalizing him and warehousing him. She says that he is remorseful and I think

he is. In her letter she said that he daily internalizes the bad choices he made and the wasted opportunities that have gone by, he can't correct those, by doin' the drugs all of that is in the past. When I talked to Don in the jail, one of the things that he wanted to do if he could get into drug court was take the program and of course you know how drug court works, they would have -- he plead guilty, he'd have a bunch of jail time hangin' over his head, if he completed drug court, all the charge would be expunged. I think he coulda made drug court. I think be wants to beat drugs and I think he coulda done well.

While in jail, I will pass these up, Judge, this is from and you may know this fella Ray White works at the detention center in the Four Freedoms Program and there's his top letter and as he says at the, at the invitation of Warden Larry Powers, they have that program in the jail. I'll give you just a moment to look at that Judge.

(Whereupon, counsel handed the documents to the Court.)

(Pause.)

THE COURT: Yes, sir, I've ---

MR. CLINE: Uh, ---

THE COURT: --- reviewed those.

MR. CLINE: Okay, Judge, so he's been tryin' to do this 26-week program, he's been tryin' to better himself while in jail. It's my understanding he hasn't had a problem in jail.

When we tried to deal with the solicitor's office for drug court, it was apparent that it wasn't gonna work and I realized we were gonna come in front of a judge to eventually enter a guilty plea, I I suggested to Don that he write the letter because many times when we stand in front of a judge, ya know, it's it's said in open court, Well he didn't even apologize to us. Well he's done that, he he sent the letter. Like I said, I don't know how many got the letter but he's tried to do that and if you, if you wanna take a moment, I'll be glad to pass it up to you so you can read it over.

(Whereupon, counsel handed the document to the Court.)

MR. CRANE: That of course is a copy that he gave to me.

(Pause.)

THE COURT: Alright, I've reviewed the the letter.

MR. CRANE: Thank you, Judge. I I I was started down a path and I, and I forgot to tell you where I was goin', Judge. When he talked about the drug court, he wanted to try and complete the drug court and his thoughts and ideas and goal was to finish that and then try to open some type of an addiction program for other drug addicts. I've been told that there's no one that can treat a drug addict better than someone that been there. I've got a brother-in-law that two years ago finally decided to give up alcohol and he's been alcohol free for two years, he's got a 2-year chip and it's the best thing he ever did, he also was addicted to cocaine

and and it's hard for them to do, I understand a little bit of where he's coming from.

Judge, you can put him in jail for the rest of his life, the statute calls for 15 years to life. If you put him in jail for the rest of his life or even for an extended period of time, he'll probly die in prison. He's 48-years-old and I, from the people I heard from, you know, that might be what they want him to do, I understand why they feel the way they do. I don't know that's that's what our prisons are all about. There are some people that perhaps need to be in prison for the rest of their life, we are hoping that you don't see him as being one of those.

Your Honor, he has signed, he has signed the restitution sheets, it's over $21,000 in restitution. One of the things that he wants to eventually try to do is to have the opportunity to try to pay those people back the money that they say they're out. He can't do that if he's in prison and maybe they're willin' to give up the money to see him stay in prison, I don't know that, but, Your Honor, what I would ask that you consider the fact that he did turn himself in. They would not have 15 of these 16 burglaries had he not told 'em about it 'cuz there's no way they could tie him to them, ever could they have tied him to 'em and so he told him over -- all of that. He's he's got -- gave 'em everything that he had: he gave 'em statements, he led 'em to where the stuff was.

The fact that technically these are burglary first, but for his prior convictions these would be burglary seconds and so, Judge, what I ask you to consider doing is treating him to the fifth -- excuse me, sentencing him to the 15-year sentence which is the burglary second, however, Judge, you also have the right to suspend that sentence and I realize to stand here and ask you for probation is just absolutely ludicrous so I'm not gonna ask you to do that but, Judge, there comes a time when dependin' on how much time you give someone then all you're doin' is warehousing them and and the prison's not doing any good to anybody so as his mother said using our tax dollars with a new prison built, I don't know what they're tryin' to do, if they're gonna release some people early or not but haven't had time to study that in great detail but I think what they're tryin' to do is perhaps make the prison stays shorter for some people and of course longer for others. If you feel like he co -- falls in the category where it oughta be longer well then I can't do anything about that. I'm tryin' to give ya every reason why you should not feel that way. Judge, what I would ask you consider doing is to let, and by the way, the the the one recommendation that the State has is that whatever you give him will be concurrent, each with the other, what I'd ask you to consider doing is giving him a sentence of 15 years on all of the sentences, that you suspend them down to the service of between 5 and 8

years and that you put in your sentence that he be required to attend the ATU program because it takes at least 3 years to do that so he's got about a year behind him, he'd still have 3 years to do the program and would still be in prison a while longer because as you know this is a non-parolable offense, he's gonna do according to the statute it's 85 percent of whatever sentence you give him and in addition to the 5 to 8 years or where -- wherever you might choose to do it that you then give him some type of probation, of course the most you could give him is 5 years probation and during that probationary time order him to pay the restitution, of course he's willing to submit to drug counseling and everything else. Now I'd like to be able to convince you to do what I just said, if I can't I might also suggest, Judge, that to give the sentence a little bit more teeth you could give a similar sentence what I said and then on one or even two of them give him 15 years or whatever you wanna give him consecutive so that the main sentence whatever it might be, let's assume you gave him 15 years suspended on 5 followed by 5 years probation, he would do that active sentence, when he got out he would come out on probation on that sentence but also if you chose to do so have a second sentence which would be 15 or whatever consecutive suspended while on probation so that when he gets out on the first sentence if he messes up on probation not only is he gonna do the remainder of that sentence but

he's looking at additional 15 and it's it's my thinking that if you're inclined to do something like that, they figure the parole eligibility or lack thereof of the suspended sentence. If you gave him say 15 suspended on 5 or 8 or whatever, they're gonna figure the 80 percent of the 5 or the 8, it's not figured on the 15 so he's gonna max out whatever sentence you give him which is a -- is his active sentence. Now that may not satisfy the victims and I can understand why it might not but, Judge, as his mother said we're lookin' at a soul here, we're lookin' at someone who is more than just someone that broke into houses. To most people he is a very bad person and and and as I said and as you read in his letter, Judge, he understands the sense of of security that he's taken from them, he can't give it back. He can try to do somethin' with the rest of his life once he gets out if he ever got out; if he never gets out then there's nothin' he can do. We would ask that you give him that ray of hope, that you give some weight to my suggestion and that you perhaps go along with it and and and structure a sentence so that he does have some type of light at the end of tunnel, so that when he gets out he would be monitored by probation and so that he can pay these people back some of the money that they've asked to be repaid back. I believe he might wanna say a word to ya, Judge.

THE COURT: Were you able to hear what your lawyer just

said?

THE DEFENDANT: Sir?

THE COURT: Were you able to hear what your lawyer just said?

THE DEFENDANT: Yes, sir.

THE COURT: Do you agree with what he stated?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Hill, is there anything that you would like to say or would like for me to know or consider.

THE DEFENDANT: Yes, sir, if I can, can I address the victims first, please.

THE COURT: Yes, sir.

THE DEFENDANT: I understand exactly what I did and I know what you said of me and I I I I see the the goodness in your heart that you would have gave the $500 not to break in your house. It wasn't about what I took that made me run to the remorse I feel today, it's it's the security that I took, that's what, that's the pain I feel, it's not the pain of the stuff I took and like I said, today, you know, I wanted you guys to have closure of some type. You know, really, Mr. Manigan, I mean, I apologize. I mean, I don't, you know, Mr. Manigan, I apologize to your kids. I, trust me, I look, I understand babies, everything's about the babies. I woulda never done that, never would I ever in my heart woulda harmed anybody, any of ya'll, I never woulda harmed you though I

harmed you physi -- mentally I harmed you and that's what, that's what drove me to to make these, make make me write this letter and to make me turn myself in. I could be like some a these other criminals out runnin' around there 'cuz I've been listenin' to this for the last 13 months and they tell me I'm crazy. I tell 'em right back to their face they're crazy. I said, Man, you can't live -- I can't live like that no more. I've been fightin' drugs for 35 years, you know, and I try to do good for a little while but I don't know if people understand how powerful a crack cocaine rock is. It drives people to -- it drive ya crazy and I tried. I don't know if anybody has the the actual time frame of all these crimes I committed, yes, there's 16 of 'em, I started in October of 2008 and ended in May 12th of 2009. You know, it's not somethin' that I did every day, it was about a once, once a month thing just because I fought that through that whole 30 days or 3 weeks before and I fought with my addiction. One thing about addict that people don't under also, Hey, we're our worst enemy. We tell ourselves that we can handle this, we we're not gonna do no more yet before we know it we're sittin' there one more time thinkin' no, I'm not gonna do this, I'm not gonna do that then we go get a rock and next thing you know I'm back in your house or your house and that's that's not been never my intention and I know I can't bring back security and I feel exactly like you do in that there's

days dark. I I mean, even before drugs I I feel the same way you do. Any one of you woulda known me on the street and any one of you woulda been surprised, there's no way that Don Hill coulda done this and I I just want you guys to know I'm I'm so seriously, seriously sorry. I don't know what else to say other than I'm very, very sorry and I don't wanna ever be in a position that that happens again, that's why even I wanted I tried and I'm still in every day, every night before I go to bed I pray for ya'lls forgiveness and I pray for God to mostly to help restore your security, your sense of security, that's what I pray for every night. Thank you for lettin' me address.

THE COURT: Thank you, sir.

THE DEFENDANT: Your Honor, I didn't, I didn't say this to these guys, let me out and whatever. I look at that day that I turned myself in. I'm ridin' down the road, the old Don woulda kept on riding' and I couldn't, I couldn't live with it no more, I just couldn't live with it no more and I told my mom please turn over, just pull over and, you know, I'd been in contact with the police, you know, they had called. My mom wasn't pity to any a these, privy to any a these conversations I had with the police but I didn't want her to be involved, I didn't want my mom to be hurt, you know, and then kinda caught up in any kinda my wrong actions. I told her let me out. It so happened, and this is how God

works, just so happened when she pulled over it was on 101 and 385 and I I immediately got outta the van and I told 'em, I said, Come get me, I'm walkin' up 101 South from 385, please come get me, I wanna turn myself in, I wanna take care of this, take care of this problem, you know, and I did go to every one of these places. They they don't have, I mean, I could talk about as a criminal they have no evidence whatsoever that I did this other than my statement and driving these police around I did this, I did that. It wasn't because I'm looking for a deal, it's because I want to come clean in my heart, that's the only way I can get clean. I think my my my past not being able to get clean I always carried some type of guilt for somethin' I've done that I've never come clean about but this time I wanted to get everything out, you know. The old, some a these criminals I live with now they'd let their mother take them 200 miles away not even tellin' her where, uh, tellin' her that you've been talkin' to the police and just say, Let me out momma, give me a couple dollars, I'll see you later. I could still be out there on the street right now, no tellin' what kind of havoc I could have done or if I'd even be alive. You know, I was a drug addict and that that's that's point black and, you know, I coulda been dead at any moment, any hit I coulda been dead. I mean, I was a serious drug addict. I look at the love of my wife and, you know, and and I I put a lot of the reason why I'm still alive today is

because of her. You know I tried real hard, I really did try real hard and I'm sorry. I tried real hard not to go in these peoples' houses and then, you know, a lotta times you all know how you've heard horror stories, you know, you look at somebody's house that's been really robbed by a criminal and man they go in your house and you got stuff everywhere, they've gone through your dressers drawers out, they sling your jewelry and everything around, they don't care nothin' about it. I was just a drug addict lookin' for a fix. I snatched a TV, ran. I didn't, you know, I wasn't tryin' to hurt, I know it sounds sorry as hell but I feel sorry, I mean, 'cuz I I would I think I was despicable, I mean, the way I feel today. I've been clean 13 months and I've gone through a lot of soul-searching to get through this 'cuz I don't ever want it to happen again and I do wanna help people that are havin' the same type of inner drug turmoil drug, addict turmoil that I've got, I wanna help them. My wife wants to join me in this because she's people like you, victims, there's people that are family me -- members like my family that don't understand what we actually go through, they don't understand what we actually go through. I'm gonna tell you, man, you can't, it's hard to explain what it feels like to to be a slave to stinkin' cocaine or any other drug and the lifestyle it presents. Okay, I just wanna say I'm sorry. Thank you for hearin' me. Thank you all guys, everybody

comin' today, that I was able to tell you this to your face instead of a letter. I spent a lotta time on that letter tryin' to write it, I wrote every one of 'em individually even though they all say the exact same thing. I think I changed, Mr. Manigan, I think I changed yours and I think I changed, us, Ms. Kelley because I actually took some jewelry from Ms. Kelley, that I, you know, that I understand that there's probly somethin' there that I just disregarded that you're not gonna ever see again and I just wanna, I sincerely apologize. Thank Your Honor for lettin' me speak.

MR. CRANE: Judge, the only thing I wanna add is that, you know, we know why we're here, we also know according to the solicitor reading you a prior record that there is some evidence that he can do right in the last 17 years. I mean, he was arrested, plead guilty in 1993 but since then according to the solicitor there's no prior, there's no record so he did lead a good life for a while and I think some things happened and and he lost his job and he started doin' the crack, that's where we are so, Judge, I ask you to temper your justice with mercy and give him a sentence you think is fair and appropriate. Thank you. And and I appreciate you listening to all of us as long as you have.

THE COURT: Thank you.

(Pause.)

THE COURT: I'll find that there is a substantial factual

basis for the plea, I'll find that the defendant's decision to enter the plea has been made freely, voluntarily, knowingly and intellectually by him, I'll find that he has received the services from a very competent and able legal counsel, services that he has indicated to the Court he is satisfied with and has relied on in reaching the decisions that he has made today, therefore I will accept the plea. Sentence under all of these cases, these will be concurrent sentences, a like sentence under each indictment, sentence of the Court is that the defendant will be confined to the state department of corrections for a period of 30 years, he will receive credit for the 395 days that he has already served, restitution has been ordered on the charges where they are appropriate. I've indicated on the sentencing sheet that my desire is that he receive the ATU program while he's in the department of corrections. I've also indicated on the sentencing sheet to make it clear to the department of corrections that means that I wish for him to have the substance abuse counseling. In the event there is any type of supervised release ever in the event something happens with these sentences, my desire and instructions is that he receive some type of alcohol and drug monitoring. I've indicated on the sentencing sheet that he's not to have any contact with these victims, that would be direct or indirect contact with the victims, that would be writing, going around them, having anyone on his behalf make

any type of contact with these victims. I have given great weight to your attorney's arguments because this sentence but for the work of your attorney and his explanations to me as well as the thoughts as have been expressed by the people that came on your behalf this sentence would have been dramatically different in a far worse way for you so do not think that I have not taken his work or their views lightly but given all of the circumstances that have been presented to me this is the sentence that I will issue in these cases. Good luck to you.

THE DEFENDANT: Okay.

MR. ELLIS: Thank Your Honor.

(Summary handout marked Court's Exhibit No. 1 and documents marked Court's Exhibit No. 2 for identification.)

CERTIFICATE OF REPORTER

I, Margaret A. Woods, Court Reporter in and for the State of South Carolina at Large, hereby certify that I reported the preceding case on June 14, 2010 at the time and place heretofore set forth; and that the foregoing pages numbered from 3 through 61, inclusive, constitute a true and accurate transcription of my stenographic notes of the said proceeding.

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

November 18, 2012

Margaret A. Woods

Margaret A. Woods, Court Reporter
in and for the State of South Carolina at Large.

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT

Donald Hamilton Hill, Jr.,)
Applicant,) TRANSCRIPT OF RECORD
-vs-) 2012-CP-42-3735
The State.) October 3, 2013
Spartanburg, SC

B E F O R E:

HONORABLE J. DERHAM COLE, JUDGE

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

TIMOTHY A. THOMAS, ESQUIRE
Attorney for the Applicant

SUZANNE H. WHITE, ESQUIRE
Attorney for the State

Linda D. Moffitt
Circuit Court Reporter

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MS. WHITE: Thank you, Your Honor.

This is the case of Donald Hamilton Hill, Jr. It's case No. 2012-CP-42-3735. Mr. Hill is represented today by Mr. Tommy Thomas.

He was indicted in June of 2009 for 16 counts of burglary first degree, and at the time he was represented by Mr. Lawrence Crane.

On June 14th of 2010 he pled to 15 of the 16 charges. One of the indictments was dismissed pursuant to his plea. He was sentenced to concurrent sentences of 30 years for each of the 15 convictions.

There was a motion for reconsideration of the sentence filed. That was denied. The appeal was filed, but it was withdrawn.

He's alleged ineffective assistance of counsel and involuntary guilty plea.

So I will turn it over to Mr. Thomas at this time.

MR. THOMAS: Your Honor, if it please the Court, we would call Mr. Hill to the stand.

DONALD HAMILTON HILL, JR.,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. THOMAS

MR. THOMAS: Your Honor, if it please the Court.

Q Mr. Hill, you're currently incarcerated?

A Yes, sir.

Q South Carolina Department of Corrections?
A Yes, sir.
Q And where are you being housed?
A Perry Correctional Institution.
Q All right, sir. And what are you serving time for?
A I'm serving time for first degree burglary.
Q All right. How many counts?
A Sixteen counts.
Q All right, sir. And was this a plea or a trial?
A It was a plea.
Q And how much time did you get?
A I got 30 years for each count run concurrent.
Q All right, sir. And what's your max-out date?
A 2034, November 7th of 2034.
Q And how old will you be when you max out?
A Between 72 and 73.
Q All right, sir. You're asking today for -- you have applied for post conviction relief. And you understand that you're asking for this sentence to be -- this conviction to be set aside and for a new trial.
A Yes, sir.
Q Do you understand that you have certain exposure?
A Yes, sir.
Q You and I have talked about that. Burglary first carries from minimum of 15 to life?

A Yes, sir.
Q Do you understand that you could if you were successful today, you could go back to trial and actually get more time?
A Yes, sir, I do.
Q All right. And given that you're willing to accept that risk, do you want to go forward today?
A Yes, sir.
Q All right. Mr. Hill, you were arrested on these charges, or how did that happen?
A No, sir. I actually turned myself in to the authorities.
Q Why did you turn yourself in?
A Because I had committed some crimes. Excuse me. I was -- I was a hopeless drug addict, and I had made some bad mistakes, and I was tired of running, and I wasn't running from the authorities. I was just tired of running from my drug addiction. And I was just tired of that life. And so I turned myself in so I could set myself straight. Excuse me.
(Pause.)
Q And as a result you confessed to these crimes.
A Yes, sir, I did.
Q All right, sir. And you were initially charged with some burglary first and some burglary seconds, or how did

that happen?

A The majority of my charges were all burglary second. I had five warrants that were classified as first degree from a specific detective. All the others were from -- all the others were second.

The one that I turned myself in on was I considered an accidental first degree burglary, which I had detectives that actually said that even though I did not intentionally go in that house knowing that -- that knowing that it was occupied and upon finding out somebody's there I tried to leave and he jumped me, and I finally got away from him and therefore I got away, and is it my -- I just --

Q Mr. Hill, you and I have talked about this, and you understand a lot of the legal terminology. You understand the statute about burglary first, don't you?

A Yes, sir, I do.

Q And you understand the criteria for a burglary first.

A I just know that it carries a lot of time and I know it's considered a very serious crime because you're taking somebody else's life in jeopardy because you're robbing them. It's like armed robbery almost. I mean, I don't know exactly.

Q All right. But you committed these crimes in the daytime.

A Yes, sir, I did. I did commit the crimes during the

daytime because I've always -- you know, I was trying to commit the crime where I wouldn't have personal exposure to a victim.

Q And you didn't have a weapon.

A No, sir.

Q And you didn't cause any physical injury to anyone other than that one case where y'all had an altercation.

A No, sir. I didn't even put no physical injury on him.

Q Actually, you're the one that got hurt.

A Yes, sir, I'm the one that got hurt.

Q Okay. Never had a knife, weapon, gun, anything.

A No, sir. The only thing I had on me was the implement I used to gain access to the house.

Q Now, the only thing that you -- that you did have in regards to enhancing these charges to a burglary first was that you had a prior record.

A Yeah. I was -- I had a prior record. And when I was in North Carolina it was considered a teenager. I had a -- I broke in houses there. And it was from this date probably 32 or 33 years ago, was my first offense, and 22 or 23 years ago for my second offense.

Q Okay. Now, why don't we go ahead and we'll address this?

MR. THOMAS: Your Honor, I was just talking with the attorney general. She indicated to me that in the return

it's listed as 15, but there are, in fact, 16 counts which we are going forward on today.

Q Mr. Hill...

MR. THOMAS: May I approach the witness, Your Honor?

THE COURT: You may.

Q Mr. Hill, I want to show you page 22 of the transcript beginning at line 16 through lines 22 and ask you if you would look at that, please.

A Yes, sir.

Q And that's where in the plea they were asking about your prior record.

A Yes, sir.

Q Would you -- you've read that?

A Yes.

Q All right. Is that statement completely true?

A No, sir.

Q And what's wrong with that statement?

A Well, they -- they -- they say the same thing twice, but two years apart from '82 and '84 is exactly the same thing that I was -- that '82 is not even a correct date.

I was arrested in 1982. I was tried and convicted in 1983 for three counts breaking and entering and larceny -- or three counts of breaking and entering and two counts of larceny.

And it says exactly the same thing, that in 1984, it

says exactly the same thing, which I actually was -- I got the time in August of 1983. So that's not a valid statement.

The other one says the second thing was -- I received 20 years for pleading guilty to six counts of second degree burglary. And that's -- that's the thing. It just says the same thing twice.

Q So instead of it appears to be three incidences, but it's actually two.

A Yes, sir. Seems like there's three, but there's actually two.

Q One involved in North Carolina what was categorized as breaking and entering.

A Yes.

Q And the other one that was in North Carolina was actually a burglary second. And there were six of those.

A Yes, sir.

Q And you pled to all of those six on the same day?

A Oh, yes, sir.

Q And what date? Do you remember when you pled to those?

A It was in 199 -- it was in August of '93.

Q August of '93.

A Yes, sir.

Q Okay. Now, so you were facing after your confession,

you were facing 16 charges of burglary of some nature, either a first or a second degree.

A Yes, sir.

Q All right. And did you make bond?

A No, sir. I was actually denied bond.

Q So you never got out.

A No, sir.

Q And you retained counsel?

A Yes, sir.

Q And who did you hire?

A I hired Mr. Crane.

Q All right, sir. And how many times did you meet with Mr. Crane?

A I guess he came maybe four, maybe five times.

Q Okay. And during those periods of time you talked about preparing your case for trial?

A Yes, yes, we did. And the extent of that was -- I know when we first met Mr. Crane asked me, you know. He thought I would be a good recipient for the drug court.

Q You had a horrendous drug problem, didn't you?

A I've been an addict for over 30 years, I mean.

Q Are you drug free today?

A I've been drug free since May 12th of 2009.

Q All right, sir. And the discovery. You understand the terminology of discovery?

A Yes, sir.
Q And did you go over the discovery with your attorney?
A We did to some extent, yes. And I don't know exactly what you're trying to ask me.
Q Okay. I'm just asking you about the theory of defense. How was -- how was your attorney going to defend you? What was your defense?
A Well, at first it was that he thought he could get me in drug court. I mean, that -- that's the -- really extent of it. And that's really what we talked about. And we talked about -- I don't know if it was his brother or something that was -- had a drug problem too, and that he thought that I would be a very good candidate for that opportunity. And that's really the extent of it.
Q All right. And so the decision -- your conversations with counsel kind of went back and forth as to a trial or a plea.
A Mostly plea.
Q Mostly a plea.
A Yes, sir.
Q And why did you make -- why did you decide to plead guilty to these charges?
A Well, it was my understanding that what I was actually pleading guilty to -- I didn't really understand. I didn't ever knew I was even indicted to begin with to first degree

burglary on all counts. I was always under the impression that I had second degree burglary and larceny, and second degree burglary and larceny, and I had these other ones, and I had assault and battery with intent to kill, and which I didn't understand at all but --

Q Where did the assault charge come from?

A Apparently since me and Mr. Manigan had the altercation in the house they considered that assault and battery with intent to kill.

Q But he actually stabbed you, didn't he?

A Yes, sir, on the road actually getting in my vehicle. I was shutting the door when he actually stabbed me through my arm.

Q Yes, sir. Now, no one -- no one was injured in any of these burglaries other than you.

A Oh, no, sir.

Q Okay. Now, so you talked about a plea. And what was your understanding about -- about your plea?

A It was my understanding, you know, to the best of my recollection, is that I was going to plead guilty to a greater crime, which was first degree burglary, on all counts, that the prosecution was going to drop the larcenies and the ABWIK. And on top of that he was going to run all the sentences concurrently and that I would get no more than 15 years.

Q That was your understanding.
A Yes, sir.
Q That's what you thought was going to happen.
A That's what I thought was going to happen. And, you know, I relayed that to my mother and my wife at the time. And, I mean -- I mean, I guess, you know, that's the best of my ability, I thought.
Q And you were willing to go along with this because they were enhancing these second degree burglaries to a burglary first, is that correct?
A Well, correct, and used the language enhanced. And I was never -- I never -- enhanced never entered any of our conversations. I never knew I was enhanced. I mean, I didn't -- I don't even -- I didn't even understand what enhancement meant. I mean, I don't even think it was even in the trial or the plea that I had that they talked about the enhanced charges. I just didn't. I wasn't even aware of that. But go ahead.
Q Okay. And-but there's a difference between sentencing for burglary seconds and burglary first.
A Oh, yes. There's a lot of differences. There's a difference between -- from a serious crime to a most serious crime and also from a different stipulation on the time that you serve from 65 percent to 85 percent. And also the 85 percent charge is nonparolable. So, and

there's a lot of difference. So I understood that I was -- I was actually -- I thought I was giving the state something, you know, for my past indiscretions, you know, and I was trying to appease the victims also. You know, I was trying to appease the court.

Q Because you had agreed to -- to make restitution. You knew that you'd have to make restitution.

A Yes, sir.

Q And actually you cooperated with them in recovery of a lot of the items.

A Oh, yes, sir. Actually, I told and to my possible peril. I showed them the places that I took the T.V.s that I had stolen. They -- they recovered nine of the T.V.s, which was probably, what, 65 percent of the property taken? And, yeah, I took -- that's what I did.

Q So you fully -- I mean, you fully cooperated with them.

A Oh, yes, sir. I even actually went around with the police officers. I showed them the exact houses that I broke into. And -- and without the assistance of them, they would look at their file when I told them I went to this address. They'd pull the file. And I would say I took this object, I believe it was a Panasonic 42-inch T.V., I took the remote control at this residence. And they were just checking it off. So they were -- they were

actually impressed with my honesty and the exactness of what I actually had taken from these people.

Q Yes, sir.

Now, so you had to make -- I mean, you had to make an informed decision to enter into this plea. And in doing that you didn't know that the burglary seconds were going to be enhanced to a burglary first?

A No, I didn't. I never knew I was even enhanced. I mean, I never knew I was enhanced to first degree burglary at all.

Q And so you appeared in front of the court, and you entered into your plea, and you got how much time?

A I got 30 years.

Q And you were expecting?

A Fifteen max.

Q Fifteen. And what did you do?

A Well, I cried, and I about fell in the floor. I didn't understand. I looked at Mr. Crane, and we both looked at each other, because I think he was as surprised as I was.

Q Right. And you actually filed a motion for reconsideration.

A Yes, sir, I did. We did file a motion for reconsideration.

Q Asking the judge to reconsider the sentence.

A Yes, we did.
Q All right. And what was the outcome of the motion for reconsideration?
A It was denied.
Q It was denied.
Now, you and I have talked about some of the case law that was in existence at the time in regards to -- to enhancement of those charges to burglary first.
A Right.
Q And we talked about under the statute that if you had two or more burglary charges or two or more housebreaking charges or a combination of both.
A Yes, sir.
Q Do you understand that?
A Yes, sir.
Q All right. And were you aware at the time that you committed these crimes that there was a possibility that the six burglaries in North Carolina could only have been considered as one incident?
A I always considered it as one incident, because I didn't get like a combination like this time when I was sentenced. I was sentenced to sixteen 30-year sentences to run concurrently at that -- in Wake County, North Carolina. I received 20 years for a consolidation of all of those second degrees.

MR. THOMAS: Your Honor, may I approach?

Q I want to show you page 45 of the transcript. And it's fairly lengthy. It's only 45, and on also -- goes over to 46. And we're talking about lines 14 through 25 on 45. And then 46, one through seven. I'd like for you to look at that if you would, please.

A Okay.

(Pause.)

Q Okay. Next page.

A Yes, sir. That's all you wanted me to read, the second one?

Q Yeah, yes, sir. Now, in that counsel was talking about basically the requirements for burglary first.

A Yes, sir.

Q And he's also talking about the enhancement.

A Yes, sir.

Q Okay. He mentions the charges in North Carolina in regards to the breaking and enterings, right?

A He actually enters them as commission of burglary. Let me see. Yeah, he -- two or more prior convictions for burglary.

Q Right. But he talks about those as housebreakings, right?

A Yes.

Q Right. And actually they're not housebreakings.

They're categorized as breaking and entering in North Carolina.

A Yeah. They stipulated. It's -- each class felony for breaking is -- they call it breaking and entering.

Q Right. And then he says over here -- or actually in here he says that he really, he made some attempt to verify those charges in -- in North Carolina, is that correct?

A Well, if you want to read his exact statement he said, "Quite honestly, don't know if their elements are the same as our burglary statutes."

Q Right.

A In doing, you know. In doing a little bit of research I don't know that those housebreakings back in the early 80s for which he would have been right around 20 -- you know, I guess he did a little bit of research and tried to find out something.

Q Right. But he says if you -- if you go to the next page, he says that that doesn't really matter.

A He does have -- there he says, "There have been at least three cases that say out-of-state burglaries count, but there's nothing I can find that says there's a time limit." I mean, is that what you're talking about?

Q Yeah. But he also says that it doesn't really matter because you had the six --

A Six, yeah.

Q -- burglaries.
A I believe, yeah.
Q Had six individual burglary seconds that you pled to in North Carolina.
A Right. I believe six of them -- excuse me. 1993. Said 17 years old. "He had burglary, six counts of burglary."
Q Okay. So at that point in time counsel is talking about your -- your attorney was talking about basically to the judge that he believed that these cases were properly enhanced because of the six burglaries that you had in North Carolina.
A It would seem so.
Q Would seem so.
A Yes, sir.
Q You didn't completely -- you're telling me that you didn't completely understand all of that.
A I never -- well, I think, you know, if you can go back a little bit too when -- when Judge Hayes was questioning me about do I understand the elements of this and -- and I told him three times in one sentence that I didn't understand and -- and so, you know, he's -- he's kind of wiggling me around a little bit. And -- and I think I made the statement, is that I'm -- I'm guilty of what I did but I don't think I'm as guilty to the severity of what the --

what I'm pleading guilty to. But, you know, I think that's where it went down to and --

Q Okay. Now, this is an important question.

A Okay.

Q You and I talked about it. To enter to -- to enter your plea in front of the Court you have to do it four conditions.

A Yes.

Q Freely and voluntarily entered, knowingly and intelligently entered. Do you feel that your plea was freely and voluntarily given?

A I believe my plea was given voluntarily on the basis of what my lawyer was telling me, you know, that this is what I needed to do.

Q Right. But you also entered -- do you think it was knowingly and intelligently given?

A Well, I said it was but I don't -- you know, I really never understood the complete everything. No, I don't think it was voluntary.

Q Okay. Did you understand that there was a possibility that these charges may not have been enhanceable to burglary first?

A I never knew that.

Q Okay. And had you known that, that there was a possibility that you would only have one burglary first and

all of the others could have been burglary seconds, would you have elected to go to trial rather than plea?

A I wouldn't've -- I woudn't've pled to 16 counts --

Q Right.

A -- if I didn't have -- if I wouldn't have had to, no, sir.

Q Okay. So you're telling us today that -- that your plea may be involuntary but you believe that it wasn't knowingly and intelligently given?

A Yes.

Q That you didn't have the basis that you needed to enter into that plea?

A I don't think -- I don't think I had the full picture.

Q Full picture.

A Yes, sir.

Q And knowing what you know today would you have entered into that plea?

A No.

MR. THOMAS: Your Honor, if I could beg the court's indulgence.

(Pause.)

Q Mr. Hill, you've waited a long time to be here today.

A Yes, sir.

Q And I know this is an important day to you.

A It's very. It's life changing.

Q And I'm not suggesting there is an either yes-or-no answer, but this is your opportunity. Is there anything that you think that I have missed or have left out or anything that you would like to add to the Court?

A Well, I think that, you know, I began a little while ago that, you know, this has been journey for me from the day I walked up. And I really wanted to turn myself in. While in jail I took the anger management class, whatever. And I think it deals with how people react to -- you know, if they're internally angry, that's why they're drug addicts. I've been searching throughout this whole time of what made me do what I did. You know, this is not -- like I say, this is not the first time. But I'm a sick individual because I was a drug addict hopelessly addicted.

While incarcerated I've taken -- I stay active in the narcotics anonymous, alcoholics anonymous. I've taken -- I've got certificates for victim impact because I wanted to see what their side was, you know, because, I mean, I don't want this to ever happen again, and I want to be an advocate myself to not only to the -- the victims, but I want to be an advocate and a help to those that need help through my story and my testimony that I could tell them, look, man, you just can't do this because this is what's going to happen. You're going to be a 50-year-old man with

a 30-year sentence and pretty much a life sentence.

Right now -- and every step of my way through the Department of Corrections I've done nothing but try to move upward and forward. Right now I'm presently housed at -- well, I'll go back a minute.

When I was at McCormick I stayed employed at a prison industry the entire time. I do good work. I'm a good metal fabricator. You know, I've got a pretty good grasp of mechanical things.

Now that I'm at Perry I've been accepted into the character base unit. And, as a matter of fact, I wasn't there very long and I got a little character-person-of-the-month certificate. You know, but that's not -- that's not the whole point. My whole point is, is that I'm doing everything I can.

Even -- even this won't stop tomorrow. Every day that goes by that I try to learn something about myself that I can change and learn. And, I mean, you can probably see that I'm kind of emotional now. I used to not be emotional like this, because I think I broke the barrier in me.

When I accepted God and tried to learn how to live right -- and it irks me that the -- the victims that I had. You know, and that's the pain I feel today. And all I want to do now is I want to turn my life around, whether or not this goes well for me or not, and proceed forward. And

each that day goes by I'm still going to learn how to be a better person. And that's really about basically all I want to say without taking up too much time.

Q I've got one more question.

A Yes, sir.

MR. THOMAS: May I approach, Your Honor?

Q Mr. Hill, I want to show you these and see if you can identify those.

A Let me take my glasses off for reading. This looks like a record of my past record from Wake County.

Q All right. From North Carolina?

A Yes, sir.

Q And is that six burglaries? Those are the disposition sheets?

A Wait a minute. Let's see. One, two, three, yes, sir.

Q All right. And those are the six burglary charges that you pled to burglary seconds to --

A Yes, sir.

Q -- in North Carolina?

A Yes, sir.

Q All right, sir. And that's information that you received either from me or from counsel in the discovery?

A Yes, sir.

Q All right. And what year was this?

A 1993.

Q And that's the same -- that's the same date that was in the transcript as far as what the solicitor told the Court about these burglaries?

A Well, they said 1992, I think. Well, yeah, 1993.

Q But that's when you pled to them.

A Yes, sir.

MR. THOMAS: Your Honor, if it please the Court, I'd like to introduce these as Applicant's 1.

MS. WHITE: No objection, Your Honor.

THE COURT: It's admitted.

(Rap sheet of applicant marked Applicant's Exhibit No. 1.)

MR. THOMAS: No further questions of Mr. Hill, Your Honor.

CROSS-EXAMINATION

BY MS. WHITE

Q I want to start off, Mr. Hill, with questions about these six prior burglary second degree charges. You said you pled to them on the same day?

A Yes, ma'am.

Q The records indicate that the offenses happened on three separate days -- December 11th, December 18th and December 28th of 1992, is that right?

A I believe so.

Q Okay. So it was six separate incidents, two occurring

on the 11th, two occurring on the 18th and two occurring on the 28th to your recollection.

A Basically, yeah, theoretically.

Q Okay.

THE COURT: Excuse me just a minute, now. He said theoretically. We're not dealing in theory here.

THE WITNESS: I understand. And I see your question. I'm sorry, ma'am, to interrupt you. I think what she was -- what she was doing, she took six divided by three and two. And I really don't know the exact dates or what charge. They could have been three on one day and three --

THE COURT: I understand. She's looking at the dates. So y'all review them.

THE WITNESS: Oh.

Q And I'm referencing the piece of evidence y'all just put in. It's not the offense date.

A I'm sorry. Okay.

Q So that's where I'm --

A Okay. I'm sorry.

Q Yeah. I'm sorry. I'm not just pulling -- pulling these out of thin air.

A Okay. There you go.

Q If you'll look on the middle left at the top it says offense date, O.F.F.N. date. The first page says 12/28/92.

A Yes. Okay.
Q You've got 12/18/92, 12/18/92, 12/11/92, 12/11/92 and 12/28/92.
A Okay. So it was actually two, two and two. Sorry.
Q Okay. And tell me. You testified that you didn't realize you were indicted originally for burglary first on all of these charges.
A Exactly, yes, ma'am.
Q Did you not know that on the day you went to the plea and in particular when they read out all of the charges as indictments for burglary first?
A That was the first time I'd ever had any indication that I was -- and, again, on that -- on that note I thought that's what I was pleading guilty to. And then when Mr. Ellis read that I was -- the indictment, such and such, indictment, such and such, that's the first time I heard that I was indicted upon that. But I thought that was part of everything because he did not include indictments for larceny or assault and battery with intent to kill. And that was my understanding. That was part of the plea.
Q Okay. And that's what -- those charges were dismissed in accordance with you pleading guilty to all of these counts.
A Yes, ma'am.
Q Okay. So is your testimony that you and Mr. Crane

never discussed the fact that your prior record was going to effect your sentencing or the charges that you were pleading guilty to?

A I can say that -- that it was spoken to me by Mr. Crane of my past record and that in accordance that Mr. Ellis did not want to come off of the violent charge, and so pleading he didn't want -- you know, he didn't want to come off the violent charge because of the past record. But he didn't think that since there was such a long time between these incidents that it would prove a factor.

Q Okay. Now, when the Court asked you your understanding of the charges that you're pleading guilty, to 16 counts of burglary in the first degree, if that -- if you weren't even understanding that you would have been indicted on that, was that not a time to take a break and talk to your attorney?

A In the past every time I've gone in front of a judge and I've had a lawyer with me and my lawyer, you know, advises me before we go into court, you know, and especially every time that I've had an incident in the past there's been a plea agreement and -- and every time I go in front of a judge they ask the same questions. And it's always been yes, yes, yes. And I know this is what I'm doing.

And, I mean, I lost my thought. And in an instance

what it is -- and then the judge would say that, you know, "Do you know that I do not have to accept this plea?" And then I say, "Yes, sir. I understand that."

So I know that I'm thinking one thing when I'm going in. And I know that the judge does not have to accept this plea. And-but when it comes down to the end when he gets ready to sentence me, you know, the judge says, "Well, I accept your plea." And I know that's when the changes -- when he -- at the end, so.

Q So is your testimony that you just -- you were saying what you thought needed to happen to make the plea occur?

A Yes, ma'am.

Q Okay. You don't deny, and obviously you've admitted, that you committed burglaries and, in fact, took the police to the homes that you had broken into, is that right?

A Yes, ma'am. I can say that as far as South Carolina stipulation of the law of crime.

Actually, in my head, you know, from being in North Carolina I thought I was committing like housebreaking, you know. I mean, I thought that I was not committing a serious crime. I didn't think I was really committing a real serious crime at the time. But, you know, of course I was under the dimension of crack cocaine, so.

Q And -- and you did take the police to each of the homes, is that right?

A Yes, ma'am. I sure did.
Q Okay. And so you're not here to deny guilt.
A No, ma'am.
Q Okay. Essentially, it's a -- it's a situation where you got a much higher sentence than you thought you might receive.
A Oh, yes, ma'am, because, I mean, I was under the impression that I was going and pleading guilty to the greater crime for a specific time, yes, ma'am.
Q Now, you -- you testified that you were aware that they were dropping the grand larceny and the assault charges.
A Yes, ma'am. I thought that was --
Q In consideration for the plea.
A Yes, ma'am.
Q You said something about a 15-year deal. Is that what you -- did Mr. Crane tell you you were getting 15 years?
A It was my impression by what our conversations were that I was pleading guilty to a greater crime for a specific amount of time.

And to be exact on that I was under the impression that the most I would get would be 15 years but that -- but most probable sentence that I would receive would be 15 suspended to eight. And then on -- on part of that Mr. Crane introduced the restitution sheet. He said,

"Mr. Hill, if you sign this restitution sheet I believe that Judge Hayes may consider of even suspending a sentence from 15 to five years active and with the stipulation of paying the restitution and/or probationary period at the end of the five years."

Q Now, do you recall the judge telling you and asking you if you understood that each of those carried a sentence of between 15 years and up to life and that he was not bound by any recommendation?

A Yes, ma'am, and that is -- that is the crime stipulation for first degree burglary, is a minimum of 15 to life.

Q Okay. And you said you did understand that he could sentence you between 15 and life.

A Yes, ma'am, I did.

Q And he also said that he could sentence you to 15 to life on each of those charges.

A Yes, ma'am.

Q And asked if you still wanted to enter the plea.

A Yes, ma'am.

Q And you said you did.

A Yes, ma'am.

Q He also asked you if anybody promised you anything, and you said no.

A Well, that's -- to me was still the standard question

is, yes, sir, yes, sir. I'm appeasing the Court. And, I mean, maybe that was where my mistake was to begin with. Maybe I should have made clear at the time what I thought.

You know, I don't consider -- I consider a promise something that, you know -- I don't know. I -- I don't really know what I thought back then.

I just know that from past experience under the advisement of attorney if I plead to this that I'm going to get this. Going in there the judge is going to ask the same questions. And -- and that's what they ask me every time, and I guess I was looking at past experience.

Q Okay.

MS. WHITE: I think that's all I have at this time, Your Honor.

MR. THOMAS: May it please the Court.

REDIRECT EXAMINATION

BY MR. THOMAS

Q Mr. Hill, these charges the attorney general asked you about that you indicted for all of these different charges -- 16 of them -- as a matter of fact, there was -- it was so detailed that there was a summary sheet that was given to the Court.

A Yes, sir.

Q And did you have an opportunity to go over that summary sheet with your attorney?

A Yes. We were looking at it together.
Q Okay. All right. And when you stepped up there and you agreed to enter into this guilty plea, what did you think your sentence was going to be?
A No more than 15 years.
Q Okay. And so what was the reason for your plea? What was the basis for this guilty plea, that you were going to get 15 years?
A Yeah, that, you know, if I pled guilty and the judge agreed to the plea as I understood it that I wouldn't get no more than 15 years even though I understood that if the judge didn't accept the plea and he sentenced me that I could get from 15 to life.
Q Right. And actually on the sentencing sheets -- you and I discussed it -- it's an indication that says 15 to life?
A Yes, sir. And at the time that Mr. Crane and I were in the -- in the lawyer room in the -- where we wait in to come in here, I had questioned him about that. I said, "Well, this says 15 to life. I thought I was going to get no more than 15." And at the time Mr. Crane says, "It's got to say 15 to life because that is the statute for first degree burglary."
Q Right. But you didn't know at the time that there was a potential defense to the enhancement of all of these

second degree burglaries to burglary first.
A No. I didn't.
Q And had you known that, had you been aware of that, would you have pled guilty to this?
A No, sir, I wouldn't have.
MR. THOMAS: No further questions, Your Honor.
MS. WHITE: Nothing further from the state, Your Honor.
THE COURT: You may step down.
MR. THOMAS: Your Honor, if it please the Court, we would call Ms. Hill to the stand.
THE COURT: Your name is what?
THE WITNESS: My name is Iris Hill.
IRIS HILL, having been first duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. THOMAS
MR. THOMAS: Your Honor, if it please the Court.
Q Ms. Hill, what relationship are you to Mr. Hill who is here today?
A I'm his mother.
Q All right. Now, you understand that you're here to tell the truth.
A Yes, sir.
Q Not here to reward anybody or try to help anybody.
A No, sir.

Q Do you understand that there are certain penalties for not telling the truth?
A Oh, yes, sir. I'm an English teacher.
Q So your intent today is to tell the truth.
A Yes, sir.
Q All right. Now, you were involved with your son in regards to this case and his decision in deciding to plead guilty?
A Yes, sir.
Q All right. And what was your understanding that he was going to receive for this guilty plea?
A He thought he was going to get, be given, 15 years.
MS. WHITE: Your Honor, I would object to her understanding of what he thought. I think he's testified to that.
THE COURT: No. The question was not what he thought. The question was what you understood.
A I understood that he was going to plea for 15 years and would serve five to eight of those years.
And I was familiar with pleas because of the other two times he had been in trouble in North Carolina. And every time he pled for something, that's what happened. So I thought that he would have 15 years and serve five to eight.
Q You've heard his testimony that he thought it was

going to be 15.
A Yes, sir.
Q I'm not asking you to say what he thought. But it was your understanding as well that he was going to receive 15.
A Yes, sir.
MR. THOMAS: No further questions, Your Honor.
MS. WHITE: Just briefly.
CROSS-EXAMINATION
BY MS. WHITE
Q Ms. Hill, was your understanding of what he was going to receive based on the conversations you had with your son?
A Yes, sir, I mean, yes, ma'am.
Q Okay. Thank you.
MS. WHITE: That's all I have.
THE COURT: You may step down.
MR. THOMAS: Your Honor, if it please the Court, we would call Mr. Lance to the stand.
MS. WHITE: Mr. Crane.
MR. THOMAS: Crane. I'm sorry. I apologize.
LAWRENCE W. CRANE, having been first duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. THOMAS
Q Mr. Crane, thank you.
A Yes, sir.

Q Get your name correctly.
You had an opportunity to represent Donald Hill?
A I did.
Q All right, sir. And you were retained while he was, I guess, still in the county jail?
A I was, uh-huh.
Q All right, sir. And how long before this actual plea were you retained?
A I think my record reflects I was retained in August of '09, so the plea was in June of '10.
Q You had adequate time to prepare it?
A I think that we did.
Q All right, sir. And I would assume that in preparation for this case you prepped it for either trial or plea.
A No. I did not prep it for a trial because, quite honestly, I wasn't paid for a trial.
Q Yes, sir.
A And I know that because I know what I was paid.
Q Yes, sir.
A I do a split fee when I take a case, and I was not paid for a trial, and I don't think Mr. Hill ever really considered a trial.
Q So it was going to be a plea from the beginning.
A Pretty much. He totally cooperated with law

enforcement, was very pleasant, a very nice guy. We always had good conversations, and we never prepared for a trial. We certainly talked about the possibility of having a trial, and perhaps if he had chosen to go to trial, then we would have gotten additional money to pay me for a trial. But we never really prepared for a trial.

Q Yes, sir. In preparing this for the plea what steps did you take?

A Well, he and I talked about it. I usually initially send a letter of representation to the solicitor. Because I got into this some -- I think he was arrested in May. So that would have been maybe four or five months after the arrest. I don't think I would have qualified for a preliminary hearing.

Q Yes, sir.

A And I think he might have asked for a preliminary and then it was -- this solicitor waived it or something. I don't know what happened with that. But I would have sent a letter of representation and then what I called my Rule 5 and Brady motion to get -- to have gotten all of the discovery. And I do have -- well, I had all of the discovery. And I think when Mr. Hill asked for it I gave it all to him. And because there was no much of it I didn't copy it for my file. So I don't have the discovery any more.

Q Yes, sir.
A I think I gave it to Mr. Hill.
Q Okay.
A But I got all of the discovery. We would have started talking about it. He would have told me what he recollected about what happened and about what he did or didn't do, how he was arrested. And we talked about it in great detail.
Q He actually brought these cases to the sheriff's department, didn't he?
A Well, yes. I think they probably would have gotten him for the Manigan burglary, but maybe not. From what I understand they had a composite sketch. And for what I can recall he had seen that sketch, and I think it was a pretty good sketch of him. And so he then turned himself in for the Manigan case. And then he told them about the other cases.
Q Right. Were you able to evaluate these charges under the 16-11-311, which is of course the burglary first statute? Did they meet the criteria of a burglary first, or did they meet the criteria for a second?
A On the face of what the incident was they did not meet the criteria of burglary first in my opinion.
Q Yes, sir.
A Now, perhaps they could have extended the one with

Manigan because there was a fight there. They allege that Mr. Hill had a screwdriver. Mr. Manigan was not injured but he was injured. So if they could call the screwdriver a deadly weapon they might have been able to stretch that to a first.

But on the face of the charges of what happened in my opinion they weren't burglary first. The only thing that made them burglary first -- and I think the last several of the warrants specifically charge with burglary first -- was that they started alleging that he had two or more prior convictions for burglary in the past.

Q Yes, sir.

A Which made it then under the statute burglary first according to the statute.

Q Right. In other words, they would have enhanced those burglary seconds to a first.

A Because of his prior record.

Q Yes, sir. And you had an opportunity to look into these charges in North Carolina. Or just kind of what was the procedure for that?

A Well, I had all of the records provided to me by the solicitor's office, meaning the prior convictions. I had the rap sheet.

I did not go as far as to try to get incident reports from North Carolina. I did not go and get copies of

indictments from North Carolina because I -- I assumed, maybe wrongfully, but I assumed that the records given to me by the solicitor's office are correct. And Donald told me that he had been convicted of burglary in North Carolina and that he had six of them.

Q Yes, sir.

A But it had been 17 years, and he hadn't been in any trouble that I can recall those 17 years. And a series of events had happened in his life that I think caused him to go back to the drugs and then caused him to start doing these things that he did again.

Q And, in essence, what he had, he did, in fact, have, the six burglaries that he pled to in North Carolina --

A That's correct.

Q -- he actually -- and you're familiar with the Applicant's 1 which is the --

A Yeah. I've seen that.

Q Okay. Which actually shows the --

A Right.

Q I guess. And that is some sort of almost like an N.C.I.C. report.

A I -- I would think it's more like South Carolina's warrant tracking sheet.

Q Yeah.

A And this shows that he was charged with burglary first

degree and then pled down to burglary second degree. It could be considered an N.C.I.C.

Q Okay.

A It shows when they supposedly occurred, when he was arrested, when he pled guilty.

Q Right. And actually on the other charges that he had, were categorized in North Carolina as breaking and entering.

A Yeah, they were. And I'm not sure that the solicitor counted those at all. I think what he was relying on is these six burglaries that Donald was convicted of in 1992, or three, whenever it was. Looks like February 2nd of '93.

Q '93. And actually in reading the transcript it appears that way, that everything is just kinda the enhancement, hinges upon those six.

A That's correct.

Q Now, were you aware of the Gordon decision and also the case that came out after Gordon, which was Bryant vs. State of South Carolina?

A No.

Q All right. Are you aware of those now?

A Yes.

Q You had an opportunity to look at those?

A I looked at the last one, which I think is Bryant, and scanned it, but I didn't read it in detail. But I looked

at it.

MR. THOMAS: May I approach, Your Honor?

THE COURT: You may.

Q Hand you a copy of this. Is that the Bryant decision?

A This appears to be a copy of the Bryant decision.

Q Now, at the time in which Mr. Hill was -- the time in which he committed these crimes -- I believe they are all prior to the effective date of Bryant, which is September 14th of 2009.

A That's correct.

Q So, in essence, he would still -- at that time Gordon would still have been good law?

A That's correct. As a matter of fact, whether or not you want to hear this or not, this was -- this was -- he would have committed the offenses he was charged with before this was even submitted to our court.

Q Right, right. And under Gordon he would have had to have been arrested and sentenced. It would had to have been individual convictions to enhance them to the burglary first.

A Well, like I said, I didn't read Gordon. So, I mean, if that's what this case says, I'll take you at your word.

Q So at the time there was a potential defense to the enhancement of the burglary seconds.

A At the time that he would have committed these

offenses I would say that there may have been a defense to the enhancement.

Q All right, sir. And that was just something that you were unaware of at the time.

A No. And I was not aware of that even though I did research on it, because one of the arguments we had, like Mr. Hill indicated, talked to the solicitor long and hard about drug court.

Q Yes, sir.

A And as he was -- as Mr. Hill was testifying today, I was trying to think back as to whether or not we actually had him interviewed. I can't remember if we had him interviewed. He says no, so but we talked to the solicitor about drug court. And they weren't going to go for that. And then they became aware they wanted burglary first. And we talked long and hard about burglary first, burglary second, tried to get them to come down to burglary second.

As a matter of fact, I do have a letter in my file dated early on. I think it's either late '09 or early 2010 where I wrote a letter to Barry Barnette and asked them about drug court and back then said my guy's ready to plead to burglary second.

So we talked long and hard with the solicitor about burglary second. It got to the point where they were not going to come down to burglary second.

And the question you asked, I told you I did not know about this case, and so of course not knowing about this case I never discussed with Mr. Hill that there might possibly be a defense to the enhancement.

Q Yes, sir. And as a matter of fact, it was your opinion that this was a good case for drug court.

A Oh, yeah. I thought it was, because he was stone cold out of it, or was.

Q Yes, sir. What did -- what did you think Judge Hayes would give him?

A I thought Judge Hayes would do exactly what Mr. Hill thought he would do, and that is give him about 15 years. Mr. Hill and I talked long and hard about whether he should plead guilty. I listened to Mr. Hill's testimony today. I think he said -- I think he testified today what he thought.

Q Yes, sir.

A Mr. Hill told you -- and the judge heard it -- that he thought he was going to get 15 years but he knew that he could get up to life.

Q Yes, sir.

A Because we talked about that. But those -- I probably shouldn't say this because it could get back to the judge -- and probably will -- but those that practice in Spartanburg would probably prefer to plead guilty in front

of Judge Hayes based on prior guilty pleas and sentence that was given. And no offense to Judge Cole or Judge Couch, but every circuit appears to have a judge that on most occasions is more lenient in sentencing than others. Now, that changes.

Q Yes, sir.

A And, quite honestly, I told someone just the other day that I started a long time ago with Judge Cole. And in my opinion he's getting a little bit easier. And I don't know what causes that and maybe he -- I don't want him to get harder than he is, but, you know, if you had to pick a judge you would probably pick Judge Hayes.

Q Right.

A In Greenville County you might pick Judge Miller or now Judge Verdin. And there's other counties. I don't go to many other counties. And there are some judges you don't want to go in front of for a guilty plea, and we all know who those are.

So when Mr. Hill and I talked about this, I'm quite sure that I told him, look, if we've got to plea, which it looks like we've got to, more likely than not we'll do better with Judge Hayes.

And like Mr. Hill testified, I probably told him in my opinion if you plead guilty, I realize there's a lot of them, but you totally cooperated, you led them to those

cases you did, you got the property back for them -- we presented four or five documents that he had done in the jail while he had then there, and he mentioned those a minute ago -- and I think more likely than not you'll probably get around 15 years. And I told him that I would ask that that be suspended down to eight or less. And I think when I asked the judge I asked for 15 suspended to five, to eight.

So he and I talked about that, and when he says that's what he expected, I would probably tell you that that's probably what I expected. I certainly didn't expect 30 years.

Q As a matter of fact, you filed a motion for Judge Hayes to reconsider the sentence.

A I did within three days of sentencing. Filed a motion to reconsider, and for whatever reason it took him almost a year and a half to respond, but he finally denied it.

Q Yes, sir. And you thought that the sentence was high.

A Well, I mean, it was within the guideline, within the range but --

Q But it was more than what you expected.

A Oh, yeah. It was more than I expected. I had never had that experience with Judge Hayes giving that long of a sentence on a guilty plea.

Q Yes, sir.

MR. THOMAS: Your Honor, if I could beg the Court's indulgence.

(Pause.)

MR. THOMAS: I have no further questions, Your Honor.

CROSS-EXAMINATION

BY MS. WHITE

Q Just briefly, Mr. Crane. In regards to your discussions, did you have a chance to review the discovery materials with the applicant prior to the plea?

A Yes, ma'am.

Q And I guess the majority of them were incident reports. Is that what --

A Well, we had -- we had incident reports on most of them, but then we also had usually about a eight-to-twelve line statement that Mr. Hill had given, because what he would say in the statement is I rode with the law enforcement officer to this area and while there I pointed out 710 Oak Street or whatever it was and I told them that's the house I went into. And they would ask me about that house. I said I didn't go into that house. And then I showed them another house. So we always had the incident reports and the little brief statement that he gave.

Q Okay. And in your discussions with him about the potential sentence, I know you said obviously you expected

15; and you told him you hoped he would get 15.
Did you promise him that if he pled guilty to these charges on that day he would receive a sentence of 15 years?
A No, ma'am.
Q And do you feel comfortable that he understood the potential was a life sentence if the judge chose to?
A Yes, ma'am. And I don't know that I expected 15, but I didn't expect 30.
Q Okay. Did you talk with him, do you recall, about concurrent or even consecutive sentencing?
A We had -- there is one agreement that we had with the solicitor. That was not only to dismiss those other charges but that the sentences, whatever he got, would all be concurrent. And the judge did that.
Q Okay.
A And so, yeah, we had talked about that.
Q And would you agree that in looking at his prior record he might have pled to these burglary charges on the same day but they occurred on three separate days?
A According to this information sheet from North Carolina they appeared to be three different offense dates.
Q Okay. At the time when you had run his criminal history, talked with him about that, and then also, as you said, done some research, were you under the impression

that those would qualify to enhance to a burglary first?
A I think the answer to your question is yes.
Q Okay.
A My opinion was as I understood the law that these would enhance it to a burglary first.
Q Okay. And ultimately the decision to plead guilty, did you feel that the applicant did that with information knowing and voluntary based on what you had shared with him?
A Yes, ma'am.
Q Okay.
MS. WHITE: Your Honor, I think that's all I have for Mr. Crane.
MR. THOMAS: No further questions, Your Honor.
THE COURT: You may step down.
THE WITNESS: Thank you, Judge.
MR. THOMAS: Your Honor, if it please the Court, that's the applicant's case.
THE COURT: All right. Anything further?
MS. WHITE: Nothing from the state, Your Honor.
MR. THOMAS: Your Honor, if it please the Court, I would like to respectfully request that -- I've contacted Wake County in North Carolina in regards to the -- these charges, in particular the breaking and enterings. I don't know if they -- if the facts of those cases

are similar to our housebreaking statute. They indicated to me that their records after ten years are destroyed.

They further indicated that there's some possibility that they may have these records on microfilm but that their microfilm machine is not working and they've been attempting to get it repaired. They said that they should have it repaired within the next week or so.

I'd like to ask the Court if you would, please, to keep the record open so I might have an attempt to obtain information in regards to the breaking and entering charges, Your Honor.

THE COURT: Any objection?

MS. WHITE: No objection, Your Honor.

THE COURT: All right. That request is granted.

MR. THOMAS: Your Honor, if it please the Court, I also have copies of Bryant and Gordon if the Court wishes, the two cases we are talking about today.

THE COURT: Okay. Well, I can use the computer, but if you have them there I'll just take them.

MR. THOMAS: Yes. I've got them printed.

THE COURT: Gordon overruled Benjamin, which stands for what Bryant now stands for? Is that what I'm -- is that -- is my recollection correct?

MR. THOMAS: Your Honor, I looked at Bryant. I don't do a lot of front-line criminal defense, and I was kind of

surprised that it had changed. But if you look at Bryant it talks about Gordon, and it says that Gordon stands for the position that you have to have separate crime, sentence, crime, sentence.

In other words, it has to be that you have to have a crime, you have to have a sentence. They have to be separate. And it would hold the position that if you pled to all of them on the same day it wouldn't -- you wouldn't have that and you would have one instance, Your Honor.

THE COURT: Gordon was Justice Waller's opinion?

MR. THOMAS: Yes, sir.

THE COURT: Yeah. See, that's what happened. See, in January of 2003 State vs. Benjamin was decided --

MR. THOMAS: Yes, sir.

THE COURT: -- which stands for the proposition, I think what Bryant stands for today. And then in October of 2003, the same year, the Supreme Court reversed Benjamin in Gordon --

MR. THOMAS: Yes, sir.

THE COURT: -- and decided it had to be separate.

MR. THOMAS: Yes, sir.

THE COURT: The makeup of the Court was much different in those two opinions. You can look at it. It's interesting, by the way.

MR. THOMAS: Yes, sir.

THE COURT: But I think apparently Bryant went back and basically reaffirmed Benjamin, or at least the theory of it.

MR. THOMAS: Yes, sir.

MS. WHITE: And, Your Honor, I would just note that if you do -- if you would like memorandum -- the state obviously has a different interpretation of what Gordon and Bryant refer to and stand for.

So I think in our position it's more of having to do with the combination of the old law statute as well as the recidivist with the multiple convictions and whether or not it's a continuous course of conduct. So I don't think it's applicable in this case, but if you would like that I'd be happy --

THE COURT: Well, you're right. That was a big discussion about whether it was a continuous course of conduct.

I understand these are not -- you would argue are not a continuous course.

MR. THOMAS: These I think are too far apart.

THE COURT: They're separate. They were --

MR. THOMAS: Yes, sir.

THE COURT: Occurred on, what was it, 28th of --

MS. WHITE: 11th, 18th and 28th.

THE COURT: Yeah. So, I mean, you know, you could argue that that's a continuous course, but that's stretching the argument pretty far. You know, if they all happened one day or two days, that's one thing. But over a month, I'm not sure that's a -- it's continuous criminal conduct, but I don't know that it's one course of conduct.

MR. THOMAS: Yes, sir.

THE COURT: Anyway, I'm happy for y'all to brief that if you'd like to.

MR. THOMAS: Be glad to, Your Honor.

MS. WHITE: Thank you, Your Honor.

THE COURT: All right.

MR. THOMAS: Thank you so much.

THE COURT: All right. Thank you.

END OF REQUESTED TRANSCRIPT OF RECORD

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 3rd day of October 2013.

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

July 10, 2015

Linda D. Moffitt
Circuit Court Reporter

09-3038

CLERK OF COURT
SPARTANBURG COUNTY
2010 JUN 17 PM 1:45
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG)

STATE OF SOUTH CAROLINA)
)
Plaintiff.)
)
Vs.)
)
DONALD HAMILTON HILL, JR.,)
)
Defendant.)

MOTION TO RECONSIDER SENTENCE

Indictment Nos: 09-GS-42-3038; 09-GS-42-3166; 09-GS-42-3167; 09-GS-42-3168; 09-GS-42-3169; 09-GS-42-3170; 09-GS-42-3171; 09-GS-42-3172; 09-GS-42-3173; 09-GS-42-3174; 09-GS-42-3175; 09-GS-42-3038; 09-GS-42-3188; 09-GS-42-3190; 09-GS-42-3191; 09-GS-42-3194

TO: THE HONORABLE J. MARK HAYES, II

The Defendant above named, through the undersigned attorney, respectfully moves the court to reconsider the sentence given to Defendant by the court on Monday, June 14, 2010. Defendant would show unto the court as follows:

1. Defendant pled guilty to 16 counts of Burglary 1st Degree referenced by the above Indictments and was sentenced to a thirty-year sentence on each and every Indictment, all to run concurrent, each with the other.

2. Defendant thanks the court for its patience during the two and a half hour long guilty plea and appreciates the court's attentiveness to the various comments and statements that were made.

3. However, acknowledging and realizing the severity of the offenses to which Defendant pled guilty, he is shocked and dismayed at the severity of the sentence handed down by the court.

4. Defendant was incarcerated in the Spartanburg County Detention for more than a year prior to entering his guilty plea and has seen numerous

individuals proceed through the court's system with crimes much more serious than his or of equal status as his, many of whom received a much less sentence than he did. Defendant wishes to remind the court that he is 47 years old and a thirty-year sentence is tantamount to a life sentence. With the present sentencing structure for the South Carolina Judicial System, Defendant will be more than seventy years old when he is released from the active sentence which was given to him on Monday. Admittedly, the sentence rendered by the court was within the sentencing range provided by statute and perhaps Defendant should have accepted the plea offer given by the Deputy Solicitor of the Seventh Judicial Circuit for a term of twenty-five years, however, Defendant believed that because of the unique circumstances surrounding these cases, Defendant would receive a much less sentence.

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

5. Under the "Omnibus Crime Reduction and Sentencing Reform Act of 2010", the General Assembly of South Carolina intends to preserve the public safety, reduce crime, and use correctional resources more effectively. The General Assembly acknowledges that the South Carolina Correctional System incarcerates people whose time in prison does not result in improved behavior and who often return to South Carolina communities and commit new crimes or are returned to prison for violation of supervision requirements. Their purpose is to reduce recidivism, provide fair and effective sentencing options, employ evidence based practices for smarter use of correctional funding and improve public safety. Defendant would respectfully show unto the court that the sentence that he received will in fact preserve public safety because

Defendant will be an old man when he is released from prison but will probably not result in improved behavior because Defendant's behavior is non-criminal when he is not consuming drugs. The sentence will simply "warehouse" Defendant at the expense of the general population of South Carolina

6. Defendant respectfully reminds the court there was evidence linking him to only one of the charges to which he pled guilty. The remaining charges were made after Defendant was arrested and he led officers of the Spartanburg County Sheriff's Office to the various locations that he broke into. He also gave them statements in each incident and led them to Woodruff, South Carolina, where they recovered much of the property that was stolen. Defendant showed his remorse and improved behavior and accepted his responsibility by leading officers to the various locations he burglarized and to the property which was stolen. The purpose of the Department of Corrections to improve his behavior has already been accomplished and Defendant respectfully acknowledges that he sees the sentence as one to punish him for his activities and his past behavior.

7. Defendant can only question what the court would have sentenced him to had there only been one Burglary 1st, which was the one where there was evidence linking him to the crime had he not given cooperation to the Spartanburg County Sheriff's Office and statements to them so that they could make the other fifteen cases against him. Defendant tried to do what he thought was right and tried to help law enforcement and but for the fact that the additional fifteen cases may have contributed to the severe

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sentence that he received, still believes that he did the right thing and is glad that he assisted law enforcement the way that he did.

8. As evidenced by individuals who spoke on behalf of Defendant and letters received by the court and programs which he has completed while incarcerated in the Spartanburg County Detention Center, it was presented to the court that he is a very humble, non-violent, loving and caring person when he is not under the influence of drugs. Defendant has been a drug addict for more than thirty-five years and during this time in his life from October 2008 to May 2009, he was suffering an illness suffered by many individuals in our society today, that being an addiction to crack cocaine. Defendant realizes and acknowledges that it may be considered by some to be a self-induced addiction but it is one that he realizes once a person is addicted to crack cocaine, it is very difficult to cure oneself and cure the problem. As evidenced by the seventeen years, which passed since Defendant's last convictions, he can live a law abiding and productive life when he is not subject to the influences of crack cocaine or other narcotics.

9. Defendant reminds the court that he was on his way to a drug treatment program when he turned himself in to law enforcement and began to cooperate with them, which led to all of his charges. He is of the opinion that the sentence given by the court, which directs the South Carolina Department of Corrections to treat Defendant for drug and alcohol abuse, is correct and most appreciated by Defendant. However, once the program is completed and Defendant has served additional time in prison, his sentence simply becomes one of punishment and non-productive.

10. Several victims spoke at Defendant's sentencing and it was brought to Defendant's attention that after individuals spoke on his behalf and the victims heard from Defendant's mother and Defendant himself that several of the victims were moved and might, in fact, feel differently concerning Defendant's sentencing. None of them have been contacted by Defendant since sentencing and will not be.

11. Defendant therefore recapitulates that he is 47 years old, that the last time he was convicted of a crime of this nature was seventeen years ago, that at time these offenses were committed, he was under the influence of crack cocaine, that Defendant intended to seek drug counseling for his addiction but rather turned himself in to law enforcement, that he totally cooperated with law enforcement after his arrest, telling them additional places he broke into and leading them to recovery of much of the property, that he has completed programs while in the Spartanburg County Detention Center, that he has written a letter to all of the victims asking for their forgiveness and acknowledging his wrongdoings, and that he does not want to spend essentially the rest of his life in prison.

THEREFORE, Defendant respectfully requests that the court reconsider the sentence given to him.

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M. HOPE BLACKLEY

Respectfully submitted,

Lawrence W. Crane

LAWRENCE W. CRANE
ATTORNEY FOR DEFENDANT

Greenville, South Carolina

June 17, 2010

09-3175

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF GENERAL SESSIONS
STATE OF SOUTH CAROLINA VS. DONALD HAMILTON HILL, JR., Defendant.	)	IND. NO.: 09.3038, 09.3166 – 75, 09.3186 09.3188, 09.3190 – 91, 09.3194 ORDER DENYING DEFENDANT'S MOTION TO RECONSIDER SENTENCE

This matter initially appeared before the Court on June 14, 2010. Assistant Solicitor Zach Ellis represented the State, and Lawrence W. Crane, Esq. represented the Defendant. On that date, the Defendant appeared before Judge J. Mark Hayes and entered a plea of guilty to the above-listed indictments, which were for sixteen counts of Burglary First Degree. The Defendant was sentenced to 30 years in prison with credit for time served, concurrent sentencing, and restitution. Pursuant to the plea agreement, the State dismissed several charges following the guilty plea.

The Defendant filed a Motion To Reconsider Sentence on June 17, 2010. The Court, having carefully considered the motion, cannot find a sufficient basis to warrant reopening the plea. The Court also does not believe oral argument would aid the Court in its decision, as the matters asserted in the motion were previously considered by the Court or were available to the Court at the time the original sentence was imposed.

Therefore, the Court denies the Defendant's Motion To Reconsider Sentence.

IT IS SO ORDERED.

Judge J. Mark Hayes
Seventh Judicial Circuit

Jan. 26, 2012
Spartanburg, South Carolina

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SPARTANBURG COUNTY
2012 JAN 26 PM 3:21
M. HOPE BLACKLEY

14-3038

The South Carolina Court of Appeals

The State, Respondent,

v.

Donald Hamilton Hill, Jr. Appellant.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUN 13 AM 11:54
M. HOPE BLACKLEY

The Honorable J. Mark Hayes, II
Spartanburg County
Trial Court Case No. 2009-GS-42-03038
2009-GS-42-03166
2009-GS-42-03167
2009-GS-42-03168
2009-GS-42-03169
2009-GS-42-0370

ORDER of DISMISSAL

This case is pending on appeal in this Court. It appears that Appellant, with full understanding of all possible consequences of this action and with agreement of counsel, wishes to withdraw the appeal and moves the Court for an Order dismissing the appeal.

Accordingly, this appeal is dismissed. The remittitur will be sent to the lower court pursuant to Rule 221(b) of the South Carolina Appellate Court Rules.

IT IS SO ORDERED.

Columbia, South Carolina

FILED
4.10.12

cc: Chief Appellate Defender Robert M. Dudek
Tommy Arthur Thomas, Esquire
Senior Assistant Deputy Attorney General Salley W. Elliott
The Honorable M. Hope Blackey

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The South Carolina Court of Appeals

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June 11, 2012

The Honorable M. Hope Blackley
PO Box 3483
Spartanburg SC 29304-3483

FILED
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SPARTANBURG COUNTY
2012 JUN 20 AM 11:01
M. HOPE BLACKLEY

REMITTITUR

Re: The State v. Hill, Donald Hamilton
Lower Court Case No. 2009gs4203038
Appellate Case No. 2012-208446

Dear Honorable M. Hope Blackley:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Robert Michael Dudek
Tommy Arthur Thomas
Salley W. Elliott

FORM 5

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
	)	
DONALD HAMILTON HILL, JR. Full name and prison number (if any) of Applicant.	)	2012-CP-42-3735
	)	
v.	)	**APPLICATION FOR**
	)	
State of South Carolina	)	**POST-CONVICTION RELIEF**
	)	

INSTRUCTIONS - READ CAREFULLY

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

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

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

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SPARTANBURG COUNTY
2012 DEC -5 AM 9:15
ANNE BLACKLEY

1. Place of detention McCormick Correctional Institution, 386 Redemption Way, McCormick, SC 29899

2. Name and location of Court which imposed sentence Spartanburg County Court of General Sessions, 180 Magnolia Street, 3rd Floor, Spartanburg, SC 29306.

3. Name(s) of co-defendant(s) (if any) .

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

   (a) 09-GS-42-3038 - Burglary 1st Degree

   (b) 09-GS-42-3166 through 09-GS-42-3175 Burglary 1st Degree

   (c) 09-GS-42-3088 ; 3190; 3191 and 3194 - Burglary 1st Degree

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

Intentionally Left Blank

(a) June 14, 2010 - 30 years concurrent

(b) June 14, 2010 - 30 years each concurrent

(c) June 14, 2010 - 30 years each concurrent

6. Check whether a finding of guilty was made:

(a) after a plea of guilty x

(b) after a plea of not guilty ____

(c) after a plea of nolo contendere ____

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

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

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

i. The South Carolina Court of Appeals

ii. ____

iii. ____

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

i. Dismissed

ii. ____

iii. ____

(c) the date of each such result:

i. April 10, 2012

ii. ____

iii. ____

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

i. ____

ii. ____

iii. ____

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

(a) ____

(b) ____

(c) ____

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

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

(a) Ineffective assistance of counsel

(b) Involuntary guilty plea

(c) ____

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

(a) ____

(b) ____

(c) ____

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

(a) any petition in a State Court under South Carolina Law? ____

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? ____

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? ____

(d) any other petitions, motions or applications in this or any other Court? yes

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. Motion for Reconsideration

ii. ____

iii. ____

iv. ____

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

i. Spartanburg County Court of General Sessions, 180 Magnolia Street, 3rd Floor, Spartanburg, SC 29306.

ii. ____

iii. ____

iv. ____

(c) the disposition thereof:

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SPARTANBURG COUNTY
2012 SEP -5 AM 9:15
M. HOPE BLACKLEY

i. denied

ii. ____

iii. ____

iv. ____

(d) the date of each such disposition:

i. January 26, 2012

ii. ____

iii. ____

iv. ____

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

i. ____

ii. ____

iii. ____

iv. ____

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

____

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

(a) which grounds have been presented:

i. ____

ii. ____

iii. ____

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

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) ____

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SPARTANBURG COUNTY
2012 SEP -5 AM 9:15
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
) VERIFICATION
County of McCormick)

I, Donald Hamilton Hill, Jr., 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.

Donald H. Hill, Jr. 8/2/2012

SWORN to and subscribed before me this 02 day of August, 2012.

_____ (L.S.)
Notary Public

My Commission Expires: 12-16-2019

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 SEP -5 AM 9:15
M. HOPE BLACKLEY

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

I, Donald Hamilton Hill, Jr., 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.

Donald H. Hill, II 8/2/2012
Applicant

SWORN or affirmed to and subscribed before me this
02 day of August, 2012

J C Franklin
Notary Public

My Commission Expires: 12-16-2019

FILED
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SPARTANBURG COUNTY
2012 SEP -5 AM 9:15
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
	)	2012-CP-42-3735
Donald Hamilton Hill, Jr., #341279,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed September 5, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. He was indicted at the June 2009 term of the Spartanburg County Grand Jury for sixteen counts of burglary, first degree (2009-GS-42-3038, -3166-3175, -3186, -3188, -3190, -3191, -3194). The Applicant was represented by Lawrence W. Crane, Esquire. On June 14, 2010, the Applicant pled guilty before the Honorable J. Mark Hayes II and was sentenced to concurrent sentences of thirty years for each of fifteen convictions of burglary – 1st degree.[1] Applicant filed a motion for reconsideration of his sentence, which was denied on January 26, 2012.

Applicant filed a timely Notice of Appeal, but following Applicant's request to withdraw the appeal, the South Carolina Court of Appeals dismissed his appeal. The Remittitur was issued on

[1] Indictment 2009-GS-42-3186 was dismissed pursuant to Applicant pleading to the other charges.

June 12, 2012.

Attached herewith and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, the Applicant's appellate records, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of counsel; and
2. Involuntary guilty plea.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their 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, 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, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

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. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the 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.

In his second allegation the Applicant alleges that he did not plead guilty freely and voluntarily. The State submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (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 at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The State submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The State submits the Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to this claim, the Respondent submits that the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such.

V.

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

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Attorney General

By: [signature]
ATTORNEYS FOR RESPONDENT

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

August 19, 2013.

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT
Donald Hamilton Hill, Jr., Applicant, v. State of South Carolina, Respondent.	2012-CP-42-3735 **CERTIFICATE 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 Respondent's Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

Tommy A. Thomas, Esquire
P.O. Box 88
Irmo, South Carolina 29063

Anne Mueller

Anne A. Mueller
Legal Assistant for the Respondent

DATED this 19th day of August, 2013.

WITNESSES

artanburg County Sheriff's Office

1. SENTENCE MADE ☐
2. REPORT ENDED Computer ☐
3. CARD PULLED ☐
INDEXED ☐
5. CHECKED WARRANTS ☐
6. CHECKED SIGNATURE ☐
7. ASSESSMENT AND ARREST WARRANT NUMBER FINE CARD MADE Computer ☐
TRAFFIC VIOLATION COPY ☐

140 D 188

ACTION OF GRAND JURY

True Bill

Standing

eperson of Grand Jury

e: 6/4/09

VERDICT

eperson of Petit Jury

e:

DOCKET NO. 09-GS-42-3175

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 08 2009

TERM

THE STATE

vs.

DONALD HAMILTON HILL, JR.

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

FILED IN COURT
SPARTANBURG COUNTY
2009 JUN 12 AM 10:50
MARC KITCHENS

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JUN 04 2009, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Donald Hamilton Hill, Jr. did in Spartanburg County on or about May 11, 2009, willfully and intentionally enter the dwelling of Raymond Manigan located at [redacted] South Carolina, without consent and with the intent to commit a crime therein, and that the defendant or another participant in the crime: (1) was armed with a deadly weapon, and/or (2) caused physical injury to a person who was not a participant in the crime, and/or (3) used or threatened the use of a dangerous instrument, and/or (4) the Defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Assistant Solicitor

142

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG)
STATE VS.)
Donald Hamilton Hill JR)
AKA:)
Race: W Sex: M Age: 47)
DOB: SS#:)
Address:)
City,State,Zip:)
DL#: SID#:)

INDICTMENT/CASE#: 2009GS4203175
A/W#: M087488
Date of Offense: 5/11/2009
S.C. Code § : 16-11-0311
CDR Code #: 0079

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Burglary 1st Degree (15 years - Life)
in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC 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: concurrent
ELLIS, ZACHARY D 71919 Donald H. Hill Jr. Received W. Cox 001454
SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 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. 395 d/s
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☒ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered **PTUP** ____
Total: $ ____ plus 20% fee: $ ____ ____ days/hours Public Service Employment
Payment Terms: Obtain GED ☐
☐ Set by SCDPPPS Attend Voc. Rehab. or Job Corp. ____
May serve W/E begining ____
Recipient: Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ ____ beginning ____
$ ____ paid to Public Defender Fund
Other: Restitution 10-1-218

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

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

Clerk of Court/ Deputy Clerk A Sellers
Court Reporter: WOOD
Presiding Judge
Judge Code:
Sentence Date: 10-14-10

SCCA/217 (11/2009)

WITNESSES

rtanburg County Sheriff's Office

1. SENTENCE MADE ☒
2. REPORT ENDE[illegible] ☒
3. CARD PULLED ☒
4. INDEXED ☒
5. CHECKED WARRANTS ☒
6. CHECKED SIGNATURE ☒
7. ASSIGNED [illegible] ☒
8. TRAFFIC VIOLATION COPY ☒

ec 14 3 dictment

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 6/4/09

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 09-GS-42-394

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 08 2009

TERM

THE STATE
vs.

DONALD HAMILTON HILL, JR.

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2009 JUN 12 AM 10:50
MARC KITCHENS

STATE OF SOUTH CAROLINA)
) INDICTMENT
COUNTY OF SPARTANBURG)

At a Court of General Sessions, convened on JUN 04 2009, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Donald Hamilton Hill, Jr. did in Spartanburg County on or about February 12, 2009, willfully and intentionally enter the dwelling of Caren Hull located at [redacted]oore, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant or another participant in the crime: (1) was armed with a deadly weapon, and/or (2) caused physical injury to a person who was not a participant in the crime, and/or (3) used or threatened the use of a dangerous instrument, and/or (4) the Defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Assistant Solicitor

STATE OF SOUTH CAROLINA Compuli 145 IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG

STATE VS. Donald Hamilton Hill JR

AKA:

Race: W Sex: M Age: 47

DOB: SS#:

Address:

City,State,Zip:

DL#: SID#:

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

INDICTMENT/CASE#: 2009GS4203174

A/W#: 2009GS4203174

Date of Offense: 6/15/2009

S.C. Code § : 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Burglary 1st Degree (15 years - Life)

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

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC 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: concurrent

ELLIS, ZACHARY D | 71919 SC Bar# | Defendant | Attorney for Defendant | 001457 SC Bar#

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

for a determinate term of 30 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. 395 dys

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

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

SPECIAL CONDITIONS:

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

Total: $ ____ plus 20% fee: ____ $ ____

Payment Terms: ____

☐ Set by SCDPPPS ____

Recipient: ____

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

PTUP ____

____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. ____

May serve W/E begining ____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

$ ____ paid to Public Defender Fund

Other: ____

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

Clerk of Court/ Deputy Clerk A. Sears

Court Reporter: Woods

Presiding Judge ____

Judge Code: ____

Sentence Date: 12-14-10

SCCA/217 (11/2009)

WITNESSES

artanburg County Sheriff's Office

1. SENTENCE MADE ☐
2. REPORT ENDED Computer
3. C[illegible] PULLED Trenton ☐
4. INDEXED ☐
5. CHECKED WARRANTS ☐
6. CHECKED SIGNATURE ☐
7. ASSIGNED STATE IDENTIFICATION NUMBER Computer
8. CARD MADE ☐
9. FIC VIOLATION COPY ☐

ect Indictment

146

ACTION OF GRAND JURY

True Bill

eperson of Grand Jury

e: 6/4/09

VERDICT

eperson of Petit Jury

e:

DOCKETED 09-GS-42-313

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 08 2009

TERM

THE STATE
vs.

DONALD HAMILTON HILL, JR.

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2009 JUN 12 AM 10:50
MARC KITCHENS

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JUN 04 2009, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Donald Hamilton Hill, Jr. did in Spartanburg County on or about November 19, 2008, willfully and intentionally enter the dwelling of Megan Cooper located at [redacted] Roebuck, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant or another participant in the crime: (1) was armed with a deadly weapon, and/or (2) caused physical injury to a person who was not a participant in the crime, and/or (3) used or threatened the use of a dangerous instrument, and/or (4) the Defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Assistant Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG

STATE VS.

Donald Hamilton Hill JR

AKA:

Race: W Sex: M Age: 47

DOB: SS#:

Address:

City,State,Zip:

DL#: SID#:

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

INDICTMENT/CASE#: 2009GS4203173

A/W#: 2009GS4203173

Date of Offense: 6/15/2009

S.C. Code § : 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Burglary 1st Degree (15 years - Life)

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

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC 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:

ELLIS, ZACHARY D — 71919 SC Bar# — Defendant — concurrent — Attorney for Defendant — 00454 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 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. 395 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 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☒ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☒ Ordered PTUP ____

Total: $ ____ plus 20% fee: $ ____

Payment Terms: ____

☐ Set by SCDPPPS ____

Recipient: ____

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

____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. ____

May serve W/E begining ____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

$ ____ paid to Public Defender Fund

Other: ____

Stayed 2 yrs

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

Clerk of Court/ Deputy Clerk A. Sauers

Court Reporter: Woods

Presiding Judge

Judge Code:

Sentence Date: 6-14-10

STATE OF SOUTH CAROLINA)
) INDICTMENT
COUNTY OF SPARTANBURG)

At a Court of General Sessions, convened on JUN 04 2009, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Donald Hamilton Hill, Jr. did in Spartanburg County on or about January 6, 2009, willfully and intentionally enter the dwelling of Samuel R. Clark located at , Moore, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant or another participant in the crime: (1) was armed with a deadly weapon, and/or (2) caused physical injury to a person who was not a participant in the crime, and/or (3) used or threatened the use of a dangerous instrument, and/or (4) the Defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Assistant Solicitor

WITNESSES

artanburg County Sheriff's Office

1. SENTENCE MADE ☐
2. REPORT ENDED Computer
3. CARD PULLED ☐
4. INDEXED ☒
5. CHECKED WARRANTS ☐
6. CHECKED SIGNATURE ☐
ARREST WARRANT NUMBER
7. ASSESSMENT AND FINE CARD MADE Computer
8. TRAFFIC VIOLATION COPY ☐
Indictment

e 150

ACTION OF GRAND JURY

True Bill

eperson of Grand Jury

e: 6/4/09

VERDICT

eperson of Petit Jury

e:

DOCKET NO. 09-GS-42-312

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 08 2009

TERM

THE STATE

vs.

DONALD HAMILTON HILL, JR.

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2009 JUN 12 AM 10:50
MARC KITCHENS

151

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE VS. Donald Hamilton Hill JR

AKA:

Race: W Sex: M Age: 47

DOB: SS#:

Address:

City,State,Zip:

DL#: SID#:

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

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS4203172

A/W#: 2009GS4203172

Date of Offense: 6/15/2009

S.C. Code § : 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Burglary 1st Degree (15 years - Life)

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

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State. (defendant's initials)

ATTEST:

ELLIS, ZACHARY D — 71919 SC Bar# — Defendant — concurrent — Attorney for Defendant — 001454 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 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. 595 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 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

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

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E begining _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

$ _____ paid to Public Defender Fund

Other: Stand off 7-19-3188

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

Clerk of Court/ Deputy Clerk

Court Reporter: Wood D. Seay

Presiding Judge

Judge Code:

Sentence Date: 12-14-10

WITNESSES

artanburg County Sheriff's Office

1. SENTENCE MADE
2. REPORT ENDED
3. CARD FILED
4. INDEXED
5. CHECKED WARRANTS
6. CHECKED SIGNATURE
7. ASSESSMENT PAID / FINE CARD MADE
8. TRAFFIC VIOLATION COPY

ec 152 Indictment

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 6/4/09

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 09-GS-42-371

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 08 2009 TERM

THE STATE

vs.

DONALD HAMILTON HILL, JR.

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2009 JUN 12 AM 10:50
MARC KITCHENS

STATE OF SOUTH CAROLINA)
) INDICTMENT
COUNTY OF SPARTANBURG)

At a Court of General Sessions, convened on JUN 04 2009, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE
(DWELLING)

That Donald Hamilton Hill, Jr. did in Spartanburg County on or about February 25, 2009, willfully and intentionally enter the dwelling of Joseph Spellman located at [redacted], Roebuck, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant or another participant in the crime: (1) was armed with a deadly weapon, and/or (2) caused physical injury to a person who was not a participant in the crime, and/or (3) used or threatened the use of a dangerous instrument, and/or (4) the Defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Assistant Solicitor

STATE OF SOUTH CAROLINA 154 IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG Computer

STATE VS.

Donald Hamilton Hill JR

AKA:

Race: W Sex: M Age: 47

DOB: #:

Address:

City,State,Zip:

DL#: SID#:

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

INDICTMENT/CASE#: 2009GS4203171

A/W#: 2009GS4203171

Date of Offense: 6/15/2009

S.C. Code §: 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Burglary 1st Degree (15 years - Life)

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

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC 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: Zachary D. Ellis 73939 Donald H. Hill JR Terrence W. Cooper 00475

ELLIS, ZACHARY D SC Bar# Defendant Attorney for Defendant SC Bar#

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

for a determinate term of 20 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. 395 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 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: $ plus 20% fee: $

Payment Terms:

☐ Set by SCDPPPS

Recipient:

PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E begining

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

$ paid to Public Defender Fund

Other:

STAND DOWN 09-318

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

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

Clerk of Court/ Deputy Clerk C. Seacrest

Court Reporter: Woods

Presiding Judge

Judge Code:

Sentence Date: 6-14-10

SCCA/217 (1/2009)

STATE OF SOUTH CAROLINA)
) INDICTMENT
COUNTY OF SPARTANBURG)

At a Court of General Sessions, convened on JUN 04 2009, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Donald Hamilton Hill, Jr. did in Spartanburg County on or about February 25, 2009, willfully and intentionally enter the dwelling of Joseph Spellman located at [redacted], Roebuck, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant or another participant in the crime: (1) was armed with a deadly weapon, and/or (2) caused physical injury to a person who was not a participant in the crime, and/or (3) used or threatened the use of a dangerous instrument, and/or (4) the Defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Assistant Solicitor

WITNESSES

rtanburg County Sheriff's Office

1. SENTENCE MADE
2. REPORT ENDED
3. CARD PULLED
4. INDEXED
5. CHECKED WARRANTS
6. CHECKED SIGNATURE
7. ASSESSMENT AND FINE CARD MADE
8. TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

156

ıdictment

ACTION OF GRAND JURY

eperson of Grand Jury
e: 6/4/09

VERDICT

eperson of Petit Jury
e:

DOCKET NO. 09-GS-42-370

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 08 2009

TERM

THE STATE

VS.

DONALD HAMILTON HILL, JR.

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2009 JUN 12 AM 10:50
MARC KITCHENS

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG)
STATE VS.)
Donald Hamilton Hill JR)
AKA:)
Race: W Sex: M Age: 47)
DOB: SS#:)
Address:)
City,State,Zip:)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

INDICTMENT/CASE#: 2009GS4203170
A/W#: 2009GS4203170
Date of Offense: 6/15/2009
S.C. Code § : 16-11-0311
CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Burglary 1st Degree (15 years - Life)

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC 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:
ELLIS, ZACHARY D | 71919 SC Bar# | Donald Hamilton Hill Jr Defendant | Lawrence D. Craig CONCURRENT Attorney for Defendant | 00454 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 30 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. 395 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 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☒ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☒ **Ordered** **PTUP** _____
Total: $ _____ plus 20% fee: _____ $ _____ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED ☐
☐ Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Recipient: _____ Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: Stand Off 09-318

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

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

Clerk of Court/ Deputy Clerk J. Sellers
Court Reporter: Wade

Presiding Judge _____
Judge Code: _____
Sentence Date: 10-14-10

WITNESSES

tanburg County Sheriff's Office

SENTENCE MADE ☐

REPORT ENDE Computer ☐

CARD TYPED ☐

INDEXED ☐

CHECKED WARRANTS ☐

~~CHECKED SIGNATURE~~ ☐

ARREST WARRANT NUMBER

ASSESSMENT AND FINE CARD MADE Computer ☐

TRAFFIC VIOLATION COPY ☐

ct | ictment

ACTION OF GRAND JURY

True Bill

person of Grand Jury

6/4/09

VERDICT

person of Petit Jury

DOCKET NO. 09-GS-42-3169

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 08 2009

TERM

THE STATE

vs.

DONALD HAMILTON HILL, JR.

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2009 JUN 12 AM 10:50
MARC KITCHENS

STATE OF SOUTH CAROLINA (Combined) 159 IN THE C[illegible]RT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG)
STATE VS.)
Donald Hamilton Hill JR)
AKA:)
Race: W Sex: M Age: 47)
DOB:)
Address:)
City,State,Zip:)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

INDICTMENT/CASE#: 2009GS4203169
A/W#: 2009GS4203169
Date of Offense: 6/15/2009
S.C. Code § : 16-11-0311
CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Burglary 1st Degree (15 years - Life)
in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC 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:

ELLIS, ZACHARY D — 71919 SC Bar# — Defendant — Attorney for Defendant concurrent — 000454 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 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. 395 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 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☒ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☒ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

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

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____
Stand Mr 09-268

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

Clerk of Court/ Deputy Clerk A. Sellers
Court Reporter: Woods

Presiding Judge _____
Judge Code: _____
Sentence Date: 6-14-10

SCCA/217 (11/2009)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JUN 04 2009, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Donald Hamilton Hill, Jr. did in Spartanburg County on or about April 15, 2009, willfully and intentionally enter the dwelling of Phillip Coleman located at [redacted], Roebuck, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant or another participant in the crime: (1) was armed with a deadly weapon, and/or (2) caused physical injury to a person who was not a participant in the crime, and/or (3) used or threatened the use of a dangerous instrument, and/or (4) the Defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Assistant Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JUN 04 2009, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Donald Hamilton Hill, Jr. did in Spartanburg County on or about October 27, 2008, willfully and intentionally enter the dwelling of Jason Faulkner located at [redacted], Roebuck, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant or another participant in the crime: (1) was armed with a deadly weapon, and/or (2) caused physical injury to a person who was not a participant in the crime, and/or (3) used or threatened the use of a dangerous instrument, and/or (4) the Defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Assistant Solicitor

WITNESSES

tanburg County Sheriff's Office

1. SENTENCE MADE ☐
2. REPORT ENDED Computer
3. CARD PULLED ☐
4. INDEXED ☐
5. CHECKED WARRANTS ☐
6. CHECKED SIGNATURE ☐
ARREST WARRANT NUMBER
7. ASSESSMENT AND FINE CARD MADE Computer
8. TRAFFIC VIOLATION COPY ☐

162
dictment

ACTION OF GRAND JURY

True Bill

person of Grand Jury

6/4/09

VERDICT

person of Petit Jury

DOCKET NO. 09-GS-42-368

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 08 2009 TERM

THE STATE
vs.

DONALD HAMILTON HILL, JR.

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2009 JUN 12 AM 10:50
MARC KITCHENS

STATE OF SOUTH CAROLINA (163 IN THE C JRT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG)
STATE)
VS.)
Donald Hamilton Hill JR)
AKA:)
Race: W Sex: M Age: 47)
DOB: SS#:)
Address:)
City,State,Zip:)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐)

INDICTMENT/CASE#: 2009GS4203168
A/W#: 2009GS4203168
Date of Offense: 6/15/2009
S.C. Code § : 16-11-0311
CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Burglary 1st Degree (15 years - Life)

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC 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: Zach D. Ellis — ELLIS, ZACHARY D
71919 — SC Bar#
Donald Hamilton Hill Jr. — Defendant
Concurrent — Attorney for Defendant
001454 — SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 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. 305 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 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☒ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☒ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

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

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____
Spkr at 09-518
☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk A. Sellers
Court Reporter: Wood
Presiding Judge _____
Judge Code: _____
Sentence Date: 6-14-10

SCCA/217 (11/2009)

WITNESSES

rtanburg County Sheriff's Office

1. SENTENCE MADE ☐
2. REPORT ENDED Computer ☐
3. CARD PUNCHED ☑
4. INDEXED ☑
5. CHECKED WARRANTS ☑
6. CHECKED SIGNATURE ☑
7. ASSESSMENT AND FINE CARD MADE Computer
8. TRAFFIC VIOLATION COPY ☑

ect ... dictment

ACTION OF GRAND JURY

True Bill

erson of Grand Jury

e: 6/4/09

VERDICT

erson of Petit Jury

e:

DOCKET NO. 09-GS-42-3167

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 08 2009 TERM

THE STATE

vs.

DONALD HAMILTON HILL, JR.

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2009 JUN 12 AM 10:50
MARC KITCHENS

STATE OF SOUTH CAROLINA 165 IN THE C[illegible]RT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG Computer

STATE VS.

Donald Hamilton Hill JR

AKA:

Race: W Sex: M Age: 47

DOB: SS#

Address:

City,State,Zip:

DL#: SID#:

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

INDICTMENT/CASE#: 2009GS4203167

A/W#: 2009GS4203167

Date of Offense: 6/15/2009

S.C. Code § : 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Burglary 1st Degree (15 years - Life)

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

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC 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. Concurrent

ATTEST: ELLIS, ZACHARY D 71919 SC Bar# Donald H. Hill Jr Defendant Reserved to Conc Attorney for Defendant 00[illegible]4 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,** for a determinate term of 30 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. 395 dys

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

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

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E begining _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

$ _____ paid to Public Defender Fund

Other: Stayed 09-318

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

Clerk of Court/ Deputy Clerk J. Spencer

Court Reporter: Wood

Presiding Judge _____

Judge Code: _____

Sentence Date: 10-14-10

SCCA/217 (11/2009)

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JUN 04 2009, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Donald Hamilton Hill, Jr. did in Spartanburg County on or about April 12, 2009, willfully and intentionally enter the dwelling of Carlos Brown located at [redacted], Roebuck, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant or another participant in the crime: (1) was armed with a deadly weapon, and/or (2) caused physical injury to a person who was not a participant in the crime, and/or (3) used or threatened the use of a dangerous instrument, and/or (4) the Defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Assistant Solicitor

STATE OF SOUTH CAROLINA)
) INDICTMENT
COUNTY OF SPARTANBURG)

At a Court of General Sessions, convened on JUN 04 2009, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Donald Hamilton Hill, Jr. did in Spartanburg County on or about March 10, 2009, willfully and intentionally enter the dwelling of Stephanie Gray located at Spartanburg, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant or another participant in the crime: (1) was armed with a deadly weapon, and/or (2) caused physical injury to a person who was not a participant in the crime, and/or (3) used or threatened the use of a dangerous instrument, and/or (4) the Defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Assistant Solicitor

WITNESSES

artanburg County Sheriff's Office

1. SENTENCE MADE
2. REPORT ENDED
3. CARD PULLED ☑
4. INDEXED ☑
5. CHECKED WARRANTS ☑
6. CHECKED SIGNATURE ☑
7. ARREST WARRANT OR FINE CARD MADE
8. TRAFFIC VIOLATION COPY ☑

ect 18 lictment

ACTION OF GRAND JURY

True Bill

eperson of Grand Jury
e: 6/4/09

VERDICT

eperson of Petit Jury
e:

DOCKET NO. 09-GS-42-3166

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 08 2009

TERM

THE STATE
vs.

DONALD HAMILTON HILL, JR.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2009 JUN 12 AM 10:49
MARC KITCHENS

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG Com 169

IN THE COURT OF GENERAL SESSIONS

STATE VS. Donald Hamilton Hill JR

AKA:

Race: W Sex: M Age: 47

DOB: SS#:

Address:

City,State,Zip:

DL#: SID#:

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

INDICTMENT/CASE#: 2009GS4203166

A/W#: 2009GS4203166

Date of Offense: 6/15/2009

S.C. Code § : 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: Burglary 1st Degree (15 years - Life)

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

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury.

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State. (defendant's initials)

ATTEST: ELLIS, ZACHARY D — 71919 SC Bar# — Donald H. Hill Defendant — Terrence O. Cox concurrent Attorney for Defendant — 004454 SC Bar#

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

for a determinate term of 30 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. 395 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 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: $ ____ plus 20% fee: $ ____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

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

PTUP

____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E begining

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

$ ____ paid to Public Defender Fund

Other: Same as 3180

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

Clerk of Court/ Deputy Clerk R. Sears

Court Reporter: Woods

Presiding Judge

Judge Code:

Sentence Date: 10-14-10

SCCA/217 (11/2009)

WITNESSES

anburg County Sheriff's Office

1. SENTENCE MADE
2. REPORT ENDED
3. CARD PULLED
4. INDEXED
5. CHECKED WARRANTS
6. CHECKED SIGNATURE
7. ASSESSMENT WARRANT NUMBER
FINE CARD MADE
8. [illegible] VIOLATION COPY

Continued

:t In :tment

ACTION OF GRAND JURY

True Bill

erson of Grand Jury

6/4/09

VERDICT

person of Petit Jury

DOCKET NO. 09-GS-42-3038

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JUN 0 8 2009 TERM

THE STATE

vs.

DONALD HAMILTON HILL, JR.

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

CLERK OF COURT
SPARTANBURG COUNTY
2009 JUN 12 AM 10:41
MARC HITCHENS

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JUN 04 2009, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

(DWELLING)

That Donald Hamilton Hill, Jr. did in Spartanburg County on or about April 8, 2009, willfully and intentionally enter the dwelling of Quinton Bonner located at [redacted] loore, South Carolina, without consent and with the intent to commit a crime therein, and that the defendant or another participant in the crime: (1) was armed with a deadly weapon, and/or (2) caused physical injury to a person who was not a participant in the crime, and/or (3) used or threatened the use of a dangerous instrument, and/or (4) the Defendant has a prior record of two or more convictions for burglary or housebreaking or a combination of both, all in violation of Section 16-11-0311 of *The Code of Laws of South Carolina*, (1976), as amended.

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

Assistant Solicitor

STATE OF SOUTH CAROLINA — IN THE COURT OF GENERAL SESSIONS

Comm 172

COUNTY OF SPARTANBURG
STATE VS.
Donald Hamilton Hill JR
AKA:
Race: W Sex: M Age: 47
DOB: SS#: 2
Address:
City,State,Zip:
DL#: SID#:
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2009GS4203038
A/W#: 2009GS4203038
Date of Offense: 4/8/2009
S.C. Code § 16-11-0311
CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Burglary 1st Degree (15 years - Life)

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC 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. concurrent

ATTEST:
ELLIS, ZACHARY D — 71919 SC Bar# — Defendant — Attorney for Defendant — 064454 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 30 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. 305 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 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☒ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☒ Ordered **PTUP** _____
Total: $ _____ plus 20% fee: $ _____ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED ☐
☐ Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Recipient: _____ Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

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

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

Clerk of Court/ Deputy Clerk
Court Reporter: Woods
Presiding Judge
Judge Code:
Sentence Date: 10-14-10

SCCA/217 (11/2009)

ARREST WARRANT

M-087488

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Spartanburg

5/15/09

computer

THE STATE against

Donald Hamilton Hill, JR

Address:

Woodruff, SC 29388-

Phone: SSN:

Sex: M Race: W Height: 6 Weight: 180

DL State: SC DL #:

DOB: Agency ORI #:

Prosecuting Agency: Spartanburg County Sheriff

Prosecuting Officer: M Brandon Letterman - 0064

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

Offense Code: 0079

Cod 173 dinance Sec: 16-11-0311

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of

to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date

RETURN

A copy of this arrest warrant was delivered to defendant Donald Hamilton Hill JR.

5/15/09

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
180 Magnolia Street
P O Box 3483
Spartanburg, SC 29304

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Spartanburg)

AFFIDAVIT

ORIGINAL

S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant M Brandon Letterman who being duly sworn deposes and says that: defendant Donald Hamilton Hill, JR did within this county and state on or about 05/11/2009 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Spartanburg) in the following particulars:

DESCRIPTION OF OFFENSE Burglary / Burglary (After June 20, 1985) - First degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on May 11, 2009, in the county of Spartanburg, Donald Hamilton Hill JR entered the dwelling of Raymond Manigan located at 220 Spirit Drive Roebuck armed with a deadly weapon or explosive and used or threatened to use a dangerous instrument and caused physical injury to a person who is not a participant in the crime, Affiant's belief is based upon police investigation.

MAY 15 REC'D

CERTIFIED COPY
CLERK OF COURT
SPARTANBURG COUNTY, S.C.
BY:
DATED 5/15/09

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Spartanburg)

Affiant's Address 8045 Howard Street
Spartanburg, SC 29303-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 5/11/2009 defendant Donald Hamilton Hill, JR did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Spartanburg) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 05/13/2009

(L.S.)

Signature of Issuing Judge

Eber Charles Gowan Jr.

Judge Code: 5674

Judge's Address Spartanburg County Judicial Center
Spartanburg, SC 29306-2335

Judge's Telephone (864)596-3424

Issuing Court: [ ]

STATE O F SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS
Donald Hamilton HILL, Jr. SCDC #341279 Applicant, -vs- The STATE of South Carolina, Respondent.	)	Civil Action No.: 2012-CP-42-03735 ORDER DENYING POST-CONVICTION RELIEF

This matter came before the Court for hearing an application seeking post-conviction relief filed on September 5, 2012, by Mr. Donald Hamilton Hill, Jr. (Applicant). Respondent made its Return on or about November 12, 2012, requesting an evidentiary hearing. An evidentiary was convened on October 3, 2013, at the Spartanburg County Courthouse in Spartanburg, South Carolina.

Applicant was present and represented by Timothy A. Thomas, Esquire. Respondent was represented by Suzanne H. White, Esquire, of the South Carolina Attorney General's Office. At the evidentiary hearing, Applicant testified on his own behalf. Iris Hill, Applicant's mother and Applicant's trial counsel Lawrence W. Crane, Esquire, testified at the hearing. After reviewing the evidence and the record in its entirety, this Court finds Applicant has failed to prove by a preponderance of evidence that trial counsel was deficient in his representation and/or that the defendant has been prejudiced by counsel's performance. Applicant has also failed to prove that his guilty plea was not knowingly and voluntarily entered with knowledge of its consequences. The request for post-conviction relief is therefore denied and the application dismissed.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. During its June 2009 term, the Spartanburg County Grand Jury indicted Applicant for sixteen counts of Burglary, 1st Degree (2009-GS-42-3038, 3166, 3175, 3186, 3188, 3190, 3191, and 3194). Applicant was represented by Lawrence W. Crane, Esquire (Counsel). Assistant Solicitor Zachary D. Ellis of the Seventh Judicial Circuit Solicitor's Office represented the State.

On June 14, 2010, Applicant pled guilty as indicted before Circuit Judge J. Mark Hayes, II. The State recommended concurrent sentencing. Judge Hayes sentenced Applicant to thirty years in prison on each indictment with the sentences to run concurrently. Applicant filed a motion for reconsideration of his

CLERK OF COURT SPARTANBURG, S.C. 2013 JUL 11 PM 12:2

sentence, which was denied on January 26, 2012. Applicant filed a timely Notice of Appeal, but following Applicant's request to withdraw the appeal, the South Carolina Court of Appeals dismissed his appeal. The Remittitur was issued on June 12, 2012.

FACTUAL HISTORY

Applicant's guilty plea was the result of his commission of sixteen burglaries from October 27, 2008 to May 11, 2009. Applicant entered sixteen different dwellings in Spartanburg County without consent. In each incident, Applicant carried away or attempted to carry away items belonging to the respective owners. During the final burglary on May 11th, Applicant was involved in a physical struggle with the homeowner while holding a screwdriver, injuring the homeowner's hand. A sample of blood was collected from the home and matched the Applicant's DNA profile. On May 12, 2009, Applicant was arrested and confessed to the crimes.

During his guilty plea, it was revealed Applicant had six prior convictions in North Carolina for Burglary 2nd Degree and three prior convictions of Breaking and Entering and two prior convictions for Larceny. Two of the Burglary offenses occurred on December 11 1992, two occurred on December 18, 1992, and two occurred on December 28, 1992. Applicant pled guilty to the six burglary charges in August, 1993.

ALLEGATIONS

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

1. Ineffective Assistance of Counsel; and
2. Involuntary Guilty Plea

Applicant requests relief in the form of a new trial.

FILED
CLERK OF COURT
SPARTANBURG SC
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SUMMARY OF TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

Applicant

Applicant testified that he turned himself in to the authorities and that he committed some crimes and "was trying to set himself straight." He testified that upon surrendering himself to police he confessed to the crimes. He testified he was originally charged with several counts of Burglary 2nd Degree and that he was never armed with a weapon and none of the victims were injured during any of the incidents.

Applicant admitted to having a prior criminal history in North Carolina, having pled guilty at one proceeding to six counts of Burglary 2d Degree in August 1993.

Applicant testified that he retain Counsel and met with him four or five times to discuss preparing his case. Counsel attempted to get him into drug court, but most of their discussion was to prepare for a guilty plea. He stated that he never understood what he was indicted for, except that he was under the impression he was facing Burglary 2nd Degree, Larceny, and Assault and Battery With Intent to Kill charges. He further testified that he understood that he would be pleading guilty to the greater crime of Burglary 1st Degree on all counts, in exchange for the prosecution dropping the larceny and assault charges. Applicant testified that he believed he would be getting a concurrent sentence of no more than fifteen years. Applicant testified that he was willing to go along with the agreement, because they were enhancing his charges to Burglary 1st Degree. Applicant then testified he never understood his charges were being enhanced.

Applicant testified that he believed he was giving the State something by confessing. Applicant testified that he was acting in an effort to appease the victims and the court. Applicant testified that when he entered his guilty plea, he did not know his charges would be enhanced to Burglary, 1st Degree. Applicant testified that he was expecting to be sentenced to a maximum of fifteen years. Applicant testified that after he was sentenced to thirty years, Counsel filed a motion to reconsider his sentence, but it was denied.

Applicant testified that he always considered his prior convictions of Burglary, 2nd Degree, were one incident, because he received a consolidated sentence for all six counts. Applicant testified that his Counsel incorrectly enters his prior convictions as housebreakings. Applicant testified that it seemed Counsel informed the plea judge that the charges were properly enhanced because of Applicant's six prior convictions of burglary in North Carolina.

Applicant testified that he did not enter his guilty plea knowingly and intelligently, because he never knew of the possibility that his charges were improperly enhanced. Had he known that, he would not have entered a guilty plea.

Applicant was cross-examined by Respondent. During this portion of his testimony, Applicant admitted his prior convictions in North Carolina occurred on three separate dates. Applicant testified that the six separate incidents occurred on December 11th, 18th, and 28th, in 1992. Applicant testified that he was just what he thought he needed to happen to make the plea occur. Applicant testified that he understood the judge was not bound by a recommendation and he was facing fifteen to life in prison. Applicant testified that knowing the possible sentencing range, he still wanted to enter his guilty plea.

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Iris Hill

Applicant's mother Iris Hill also testified. She testified that she understood Applicant would be receiving a fifteen year sentence and would only serve five to eight years in prison. She testified that her understanding was based only on her conversations with Applicant.

Lawrence W. Crane, Esquire

Counsel testified that he was retained to represent Applicant in August 2009 to assist with the entry of a plea of guilty. He testified that from the beginning of his representation, it was always going to be a plea. He explained that, Applicant fully cooperated with law enforcement after his arrest, had surrendered himself and confessed to his crimes, Counsel had received complete discovery of Applicant's case, and he had discussed the case in great detail with Applicant.

Counsel further testified that the facts of the incidents themselves did not meet the requirements for Burglary 1st Degree but that Applicant's criminal history served to enhance the charges. He explained that he was aware of Applicant's criminal history but did not obtain actual police reports of the incidents. He stated that Applicant informed him he had been convicted of six counts of Burglary in North Carolina.

Counsel testified that at the time of Applicant's plea, Gordon[1] was still good law. Counsel testified that he was unaware of Bryant[2]. Counsel testified since he was unaware of Bryant, he did not discuss the case with Applicant or a possible defense to the enhancement. Counsel testified that he believed Judge Hayes would sentence Applicant to fifteen years, but Applicant knew he was eligible for a life sentence. Counsel did not expect the thirty year sentence that Applicant received. Counsel testified that he filed a motion to reconsider Applicant's sentence within three days of sentencing.

Counsel testified that he never promised Applicant that he would receive a sentence of fifteen years. Counsel testified that the only recommendation from the State was that all sentences would run concurrent. Counsel testified that Judge Hayes agreed with the State's recommendation. Counsel testified that he studied Applicant's criminal background, discussed the criminal record with Applicant, and he conducted research on the requirements for enhancement to Burglary 1st Degree. Counsel testified that, as he understood the law at the time, Applicant's prior convictions for Burglary in North Carolina could serve to enhance the charges to Burglary, 1st Degree.

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FINDINGS OF FACTS AND CONCLUSIONS OF LAW

[1] State v. Gordon, 356 S.C. 143, 588 S.E.2d 105 (2003).
[2] Bryant v. State, 384 S.C. 525, 683 S.E.2d 280 (2009).

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

Ineffective Assistance of Counsel

Applicant alleges Counsel provided ineffective assistance of counsel. Applicant alleges Counsel was deficient in not knowing Gordon was controlling and "it is very possible that all of [Applicant's] charges could not have been enhanced to Burglary, 1st."[3]

In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 443, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove that counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Id. (quoting Strickland, 466 at 688). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, an applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

After careful review of the entire record and based on the standard discussed above, this Court finds Applicant has failed to carry his burden of proof and has not established any ineffectiveness of counsel. To

[3] Applicant's letter to the Court, dated October 30, 2013.

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ALLENDALE COUNTY
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show ineffective assistance for failing to investigate, Applicant must present evidence to show what counsel could have discovered had he more fully investigated. Jackson v. State, 329 S.C. 345, 354, 495 S.E.2d 768, 772 (1998) ("Respondent failed to present any evidence of what counsel could have discovered or what other defenses respondent would have requested counsel pursue had counsel more fully prepared for the trial.").

Applicant asserts that Gordon was the controlling law when it comes to his guilty plea and the enhancement of his charges. Applicant entered his guilty plea on June 14, 2010. Gordon was overruled by the South Carolina Supreme Court on September 14, 2009, nearly one year prior to Applicant's guilty plea.[4] At the time of Applicant's conviction for Burglary, 1st Degree, Gordon was no longer the law. Applicant asserts Counsel was ineffective for failing to analyze his case under a law that was valid at the time of his arrest, but not at the time of his conviction. Failure to argue overturned precedent is not a ground for ineffective assistance of counsel. Applicant has failed to meet his burden of proof.

Applicant asserts that under Gordon, his prior convictions should not have been used to enhance his charges to Burglary, 1st Degree. In Gordon, the South Carolina Supreme Court held S.C. Code Ann. §§ 17-25-45 and 17-25-50 must be construed together when determining whether crimes committed at points close in time qualify for a recidivist sentence. Gordon at 151. This applies in cases where a defendant is eligible for a mandatory life sentence, under S.C. Code Ann. § 17-25-45(A). Since Applicant was not sentenced under S.C. Code Ann. § 17-25-45, Gordon is not applicable in the context of his case.

Applicant was sentenced to sixteen terms of thirty years, all to be served concurrently. Judge Hayes sentenced Applicant within the range allowed under the South Carolina burglary statute, S.C. Code Ann. § 16-11-311(B). Applicant was correctly sentenced under the statutory range for Burglary, 1st Degree, and was not sentenced under any recidivist statute. Gordon would not have applied, even if it was controlling authority. Therefore, Counsel was not deficient in failing to argue inapplicable law. Relief based upon this allegation is denied and dismissed with prejudice.

Involuntary Guilty Plea

A guilty plea is a solemn, judicial admission of the truth of the charges against an individual. Thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130,137, 654 S.E. 2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63 (1977)). An applicant may attack the voluntary, knowing, and intelligent character of a guilty plea entered on advice of counsel by demonstrating that counsel's representation was below an objective

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[4] State v. Bryant

standard of reasonableness. Porter v. State, 368 S.C. 378, 629 S.E. 2d 353 (2006). To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238 (1969); Roddy v. State, 339 S.C. 29 (2000).

Applicant alleges his guilty plea was not knowingly and voluntarily made. Applicant also alleges his guilty plea was not made with a complete understanding of the nature of the charges and the inadequacies of the plea potential. Specifically, Applicant alleges he did not understand that there was a possibility that these charges may not have been enhanced to Burglary, 1st Degree. This Court finds the record supports Applicant's plea was made knowingly, voluntary and upon the sound advice from Counsel.

Applicant confessed to committing all sixteen crimes he was charged with. Applicant testified that his conversations with Counsel regarding his case were mostly in preparation for a plea. Applicant testified that it was his understanding that he would be pleading guilty "to a greater crime, which was first degree burglary, on all counts." Applicant testified that it was his understanding that all of the sentences were going to run concurrently, but he would not receive more than fifteen years. Applicant testified that he pleaded guilty in exchange for the State dropping two additional charges against him. Applicant admitted to saying what he needed to make the plea happen. Applicant testified that he understood he could be sentenced from fifteen to life for Burglary, 1st Degree. Applicant testified that it was his decision to plead guilty.

The underlying facts to the crime are overwhelming to establish Applicant's guilt of the offenses to which he pled. Counsel appeared credible when testifying during the evidentiary hearing. The transcript of the plea hearing is thorough as to Applicant's understanding of his right to a trial and his willingness to forgo the trial and clearly establishes that his decision to plead guilty was knowingly and voluntarily made with knowledge of the consequences. Specifically, Applicant admits his understanding that he would be pleading guilty to sixteen counts of Burglary, 1st Degree and the range of sentencing that could be applied. Applicant has failed to meet his burden of proof. The request for relief based upon this allegation is denied and dismissed with prejudice.

CONCLUSION

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

This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record to secure the appropriate appellate review. See Rule 203, SCACR.

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Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The request for relief is denied and the application is dismissed with prejudice; and
2. Applicant shall remain in the custody of the State.

AND IT IS SO ORDERED this 31st day of July, 2019.

J. DERHAM COLE, Presiding Judge

Spartanburg, South Carolina

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STATE OF SOUTH CAROLINA)	THE COURT OF COMMON PLEAS
)	
COUNTY OF SPARTANBURG)	CASE NO.: 2012-CP-42-3735
Donald Hamilton Hill, Jr.,)	NOTICE OF MOTION AND
Applicant,)	MOTION TO ALTER OR AMEND
vs.)	THE JUDGMENT
)	
State of South Carolina,)	
Respondent.)	

That the Applicant would move before the Court to alter or amend the Court's Order of Dismissal. That the Applicant is informed and believes that the proposed Order of Dismissal lacks certain information and/or testimony necessary for a complete finding of facts and ruling by the Court.

That the Applicant would propose the following:

1. At the conclusion of the Post-Conviction Relief hearing, the Court held the record open to allow the Applicant the opportunity to provide the Court with his criminal record from North Carolina. A copy of which is attached hereto. This information is not contained in the Order.
2. The Applicant's South Carolina Burglary charges were enhanced as a result of his prior record in North Carolina and therefore, Applicant feels that the inclusion of this information is important and proper.

Respectfully submitted,

Tommy A. Thomas
Attorney for Applicant
P.O. Box 88
Irmo, SC 29063
(803) 732-5507

Irmo, SC
August 7, 2019

STATE OF SOUTH CAROLINA)	THE COURT OF COMMON PLEAS
)	
COUNTY OF SPARTANBURG)	CASE NO.: 2012-CP-42-3735
Donald Hamilton Hill, Jr.,)	
Applicant,)	
vs.)	CERTIFICATE OF SERVICE
)	
State of South Carolina,)	
Respondent.)	

I, Jacquelyn E. Miller, secretary to Tommy A. Thomas, Attorney for the Applicant hereby certify that I placed in the United States Mail, a copy of a Notice of Motion and Motion to Alter or Amend the Judgment with postage prepaid and the return address clearly shown on said envelope to Johnny James, Esq. of the Attorney General's Office, at:

Johnny James, Esq.
Attorney General's Office
P.O. Box 11549
Columbia, SC 29211-1549

The Honorable J. Derham Cole
Judge of the Seventh Circuit
P.O. Box 1744
Spartanburg, SC 29304

Jacquelyn E. Miller
Secretary to Tommy A. Thomas
Attorney for Applicant
P.O. Box 88
Irmo, SC 29063
(803) 732-5507

Irmo, SC
August 7, 2017

Tommy A. Thomas

ATTORNEY AND COUNSELOR AT LAW

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(803) 732-5507
(803) 732-5508

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(803) 781-4226

HARRINGTON BUILDING
7588 WOODROW STREET
IRMO, SOUTH CAROLINA 29063

PLEASE REPLY TO:
PO BOX 88
IRMO, SC 29063

INMATE LINE
(803) 732-6542

October 30, 2013

The Honorable J. Derham Cole
Judge of the Seventh Judicial Circuit
P.O. Box 1744
Spartanburg, SC 29304

RE: Donald Hill v. State of South Carolina
Docket No.: 2012-CP-42-3735

Dear Judge Cole:

At the conclusion of Mr. Hill's Post-Conviction Relief hearing, the Court held the record open for submission of Mr. Hill's criminal record in North Carolina. I have enclosed the information that I was able to obtain from Wake County, North Carolina regarding Mr. Donald Hill's prior record. Mr. Hill's South Carolina Burglary charges were enhanced to Burglary in the First Degree as a result of his prior record in North Carolina. Mr. Hill's prior North Carolina record was presented in Court as:

1984 - Three counts of Breaking and entering and two counts of Larceny from County, North Carolina.
1993 - Six Counts of Burglary 2nd, Wake County, North Carolina.

Upon inquiry to Wake County, North Carolina, we were informed that their records are destroyed after ten years. However, some information is preserved on microfilm. I was provided documents from North Carolina which shows that the six counts of Burglary 2nd were disposed of pursuant to a single plea on August 11, 1993.

Mr. Hill was arrested on May 12, 2009. He turned himself in to the Police and voluntarily gave information that resulted in him being charged on sixteen (16) counts of Burglary. The crimes were allegedly committed between March 11, 2009 to April 24, 2009. Mr. Hill's charges were enhanced to Burglary 1st and he plead to sixteen (16) counts of Burglary 1st on June 14, 2010.

Upon research of this matter, it appears that the two cases that are most directly on point are State v. Gordon, 256 S.C. 143, 588 SE2d 105 and Bryant v. State of South Carolina 384 S.C. 525, 683 SE2d 280. It appears that Gordon was the law when Mr. Hill committed the burglaries. However, by the time he entered into the plea, Gordon had

been overruled by Bryant. Pursuant to Gordon, there was a necessity that a subsequent offense for enhancement purposes must occur after imposition of the sentence for the prior offense. Therefore under Gordon the six separate counts of Burglary 2nd should have only been counted as one incident.

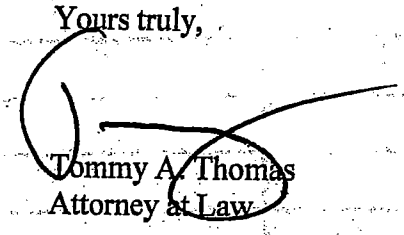
It further appears from the transcript that the Court and all parties involved where concentrating on the fact that the six (6) prior burglary 2nds were sufficient to enhance Mr. Hill's charges all to Burglary in the 1st Degree. Testimony at the Post Conviction Relief hearing was presented by Trial Counsel that he believed that all but one of the South Carolina charges were clearly Burglary 2nd Degree. That there was some question as to the other charge, if it would rise to the significance of a Burglary 1st. The question was would the screwdriver that was used to gain entry have been considered a deadly weapon. Trial counsel testified that he did not know that pursuant to Gordon the prior Burglary convictions should have been considered as one occurrence and that had he known that these cases fell under Gordon then it could have made a difference in Mr. Hill's plea.

Mr. Hill testified at the Post Conviction Relief action that had he known that there was a possibility that these charges could not have been enhanced to Burglary 1st then he would not have entered into this plea.

I think there is sufficient evidence to show that trial counsel was deficient in not knowing that the Gordon case was controlling and that it is very possible that all of Mr. Hill's charges could not have been enhanced to Burlary 1st. Also, that given this information, Mr. Hill would not have plead guilty.

Thank you for allowing me to submit this additional information. Should you have any questions, or need any additional information, please do not hesitate to contact me.

Yours truly,



Tommy A. Thomas
Attorney at Law

TAT/jem
cc: Suzanne H. White, Esq.

STATE OF NORTH CAROLINA

WAKE County

File No. 93 CRS 40

Film No. 93-140-34

THE STATE OF NORTH CAROLINA VS.

Name And Address Of Defendant
DONALD H. HILL, JR
A[illegible] DOB 7-24-62

SUPERIOR COURT CRIMINAL DOCKET

Name Of Defense Attorney
P. Mastrom[illegible] Appt.

Amount Of Bond | Surety

Name Of Prosecuting Attorney

Offense
BURGLARY

Names And Addresses Of Witnesses
K.R. Pearce, D.C. Curran, RPD
Richard McRanen[illegible] [illegible]ostery Way, Raleigh, N.C.

DATE	DOCKET ENTRIES
	☐ Warrant For Arrest ☐ Citation ☐ Criminal Summons ☐ Magistrate's Order
	☐ Appeal From District Court Probable Cause ☐ Found ☐ Waived
	☐ Superseding Indictment ☐ True Bill Returned ☐ Not A True Bill Returned
	notice Indict to Atty
7-6-93	SLP
11-6-93	Judgment

AOCCR401
Rev. 2/91

STATE OF NORTH CAROLINA

File No. 98 CRS 7370, 1537, 15

Wake County

In The General Court Of Justice
☐ District ☒ Superior Court Division

STATE VERSUS

Name Of Defendant: Donald W. Hill, Jr.

TRANSCRIPT OF PLEA

G.S. 15A-1022

The defendant, having offered a plea of guilty and being first duly sworn, makes the following answers to the questions set out below:

	Answers
1. Are you able to hear and understand me?	Yes
2. Do you understand that you have the right to remain silent and that any statement you make may be used against you?	Yes
3. Are you now under the influence of alcohol, drugs, narcotics, medicine, pills, or any other intoxicants? (a) When was the last time you used or consumed any such substance?	No 5 months
4. Have you discussed your case fully with your lawyer and are you satisfied with his legal services?	Yes
5. (a) Do you understand that you are pleading (guilty) (~~no contest~~) to the felonies of 2nd Degree Burglary (4 counts)?	Yes
5. (b) Do you understand that you are pleading (guilty) (no contest) to the misdemeanors of ?	
6. Have the charges been explained to you by your lawyer, and do you understand the nature of the charges, and do you understand every element of each charge?	Yes
7. Do you understand that upon your plea you could be imprisoned for a possible maximum sentence of 240 years ____ months (and that the mandatory minimum sentence is 14 years ____ months) (or you could be fined up to $____) (or you could be both imprisoned and fined)?	Yes
8. Do you understand that you have the right to plead not guilty and be tried by a jury and at such trial to be confronted with and to cross-examine the witnesses against you, and by this plea you give up these and your other constitutional rights relating to trial by jury?	Yes
9. Do you understand that, if you are not a citizen of the United States of America, this plea may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law?	Yes
10. Do you now personally plead (guilty) (no contest)?	Yes
11. (a) *(if applicable)* Are you in fact guilty?	Yes
(b) *(if applicable)* Do you understand that upon your plea of no contest you will be treated as being guilty whether or not you admit your guilt?	Yes
12. Have you agreed to plead as a part of a plea arrangement? Before you answer, I advise you that the Courts have approved plea negotiating, and if there is such, you may advise me truthfully without fear of incurring my disapproval.	Yes

AOC-CR-300
Rev. 7/91

(Over)

13. *(If applicable)* The prosecutor and your lawyer have informed the Court that these are all the terms and conditions of your plea. — Answers: The defendant will receive a sentence of 20 years.

(a) Is this correct as being your full plea arrangement? — Yes
(b) Do you now personally accept this arrangement? — Yes

14. (Other than the plea arrangement between you and the prosecutor) has anyone made any promises or threatened you in any way to cause you to enter this plea against your wishes? — No

15. Do you enter this plea of your own free will, fully understanding what you are doing? — Yes

16. Do you have any questions about what has just been said to you or about anything else connected with your case? — NO.

I am 31 years of age and have completed the 11th grade of school: *(List any additional education, if applicable.)*

I have read or have heard all of these questions and understand them. The answers shown are the ones I gave in open court and they are true and accurate. Neither my lawyer nor anyone else has told me to give false answers in order to have the Court accept my plea in this case. The conditions of the plea as stated above, if any, are accurate.

SWORN AND SUBSCRIBED TO BEFORE ME	Date
Date: 8-11-93	Signature Of Defendant: Donald H. Hall, Jr.
Signature Of Deputy Or Assistant CSC: Linda M. Lewis	Name Of Defendant (Type Or Print): DONALD H. HALL, JR.

CERTIFICATION BY LAWYER FOR DEFENDANT

As lawyer for the defendant named above, I hereby certify that the conditions stated above, if any, upon which the defendant's plea was entered are correct and they are agreed to by the defendant and myself upon which the defendant's plea was entered. I further certify that I have fully explained to the defendant the nature and elements of the charges to which he is pleading.

Date	Signature Of Lawyer For Defendant
8/11/93	

CERTIFICATION BY PROSECUTOR

As prosecutor for this Prosecutorial District, I hereby certify that the conditions stated above, if any, are the terms agreed to by the defendant and his lawyer and myself for the entry of the plea by the defendant to the charge in this case.

Date	Signature Of Prosecutor
8-11-93	

PLEA ADJUDICATION

Upon consideration of the record proper, evidence presented, answers of defendant, and statements of the lawyer for the defendant and the prosecutor, the undersigned finds:

1. That there is a factual basis for the entry of the plea.
2. That the defendant is satisfied with his lawyer.
3. That the defendant is competent to stand trial and that the plea is the informed choice of the defendant and is made freely, voluntarily and understandingly.

The defendant's plea is hereby accepted by the Court and is ordered recorded.

Date	Signature Of Presiding Judge
8/11/93	

STATE OF NORTH CAROLINA

WAKE County RALEIGH Seat Of Court

File No. 93 CRS 3370, 3531, 32, 1754, 40, 41

NOTE: *(This form is not to be used for multiple offenses unless they are consolidated for judgment.)*

In The General Court Of Justice ☐ District ☒ Superior Court Division

STATE VERSUS

Defendant: DONALD H. HILL, JR.

Race: W | Sex: M | DOB: | ☐ Pre-FSA Felony

Attorney For State: BREWER | ☐ Def. Found Not Indigent | ☐ Def. Waived Attorney

☐ DWI Offense | Level Of Punishment (G.S. 20-179):

JUDGMENT AND COMMITMENT

G.S. 15A-130

Attorney For Defendant: MASTIN/MICHAELS ☐ Appointed ☐ Retained

Driver's License No. (DWI Only): | State (DWI Only):

The defendant ☒ pled guilty to: ☐ was found guilty by the Court of: ☐ was found guilty by a jury of: ☐ pled no contest to:

File No.(s) And Offense(s)	Date Of Offense	G.S. No.	Fel./M.	Class	Max. Term	Presumptive
6 COUNTS SECOND DEGREE BURGLARY	DECEMBER 1992	14-51	F	D	40	14

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a term of 20 YEARS

in the custody of the ☒ N.C. Dept. of Correction ☐ Sheriff of _____ County

The defendant shall be given credit for 195 days spent in confinement prior to the date of this Judgment as a result of this charge

☐ The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.

☐ The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

(NOTE: *List the Case Number, Date, County And Court In Which Prior Sentence Imposed.*)

(check all that apply)

☐ The defendant shall serve as a committed youthful offender pursuant to G.S. Chapter 148, Article 3B.

☐ The defendant shall pay the costs.

☐ Immediate work release is recommended pursuant to G.S. 148-33.1.

☐ With the consent of the defendant, work release is ordered under the conditions set forth in the attached order *(applies to misdemeanants only).*

☐ The Court does not recommend that the defendant be required to pay restitution or reparation, as a condition of parole if parole is granted, or from his earnings if work release is granted.

☐ The Court recommends that the defendant be required to pay, as a condition of parole if parole is granted, or from his earnings if work release is granted, the items and amounts set out below.

☐ The defendant should not obtain the benefit of release pursuant to G.S. 148-49.15.

☐ The defendant shall pay a fine of $ _____

☐ Work release is recommended. ☐ Work release is not recommended.

Fine	Costs	Restitution	Reimbursement For Counsel Fee(s) And Other Expenses	Total Amount Due
$	$	$	$	$

Names and address(es) of aggrieved party (parties) to receive restitution *(specify amount if more than one aggrieved party)*

AOC-CR-306, Rev. 8/92 © 1992 Administrative Office of the Courts

Make all copies legible. Unreadable copies will be disregarded and may cause delays.

The Court further recommends:

DMT TREATMENT

FOR USE WITH FAIR SENTENCING ACT FELONIES ONLY

The Court has considered the aggravating and mitigating factors in G.S. 15A-1340.4(a) and:

☐ makes no written findings because the prison term imposed does not require such findings.

☒ makes no written findings because the prison term imposed is pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.

☐ makes written findings set forth on the attached Findings of Factors in Aggravation and Mitigation of Punishment (AOC-CR-303).

AWARD OF FEE TO COUNSEL FOR DEFENDANT

☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT

It is ORDERED that the Clerk deliver three certified copies of this Judgment and Commitment to the Sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until he shall have complied with the conditions of release pending appeal.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
8-1-95	HENRY L. PARKER	

APPEAL ENTRIES

☐ The defendant gives notice of appeal from the judgment of the District Court to the Superior Court. The current pretrial release order shall remain in effect ☐ except that:

☐ The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on Form AOC-CR-350.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge

ORDER OF COMMITMENT AFTER APPEAL

Date Remanded To District Court	Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the Sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official three certified copies of this Judgment and this Order as authority for the commitment and detention of the defendant.

Date	Signature Of Clerk
	☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

CERTIFICATION

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.

☐ Findings Of Factors In Aggravation And Mitigation Of Punishment (AOC-CR-303)
☐ Determination Of Sentencing Factors In DWI Cases (AOC-CR-311)
☐ Appeal Entries (AOC-CR-350)

Date	Signature And Seal
Date Certified Copies Delivered To Sheriff 8/2/95	☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

AOC-CR-301, Side Two
Rev. 8/92

Material opposite unmarked squares is to be disregarded as surplusage.

STATE OF NORTH CAROLINA

File No.

WAKE County

NOTE: (This form is not to be used for multiple offenses unless they are consolidated for judgment.)

Seat Of Court

In The General Court Of Justice
☐ District ☐ Superior Court Division

STATE VERSUS

Defendant
DONALD H. HILL, JR.

AMENDED
JUDGMENT AND COMMITMENT
G.S. 15A-1301

Race	Sex	DOB	Pre-FSA Felony
W	M		☐

Attorney For State
BREWER

☐ Def. Found Not Indigent ☐ Def. Waived Attorney

Attorney For Defendant
MASTIN MICHAELS ☑ Appointed ☐ Retained

☐ DWI Offense

Level Of Punishment (G.S. 20-179)

Driver's License No. (DWI Only)

State (DWI Only)

The defendant ☒ pled guilty to ☐ was found guilty by the Court of ☐ was found guilty by a jury of ☐ pled no contest to

File No.(s) And Offense(s)	Date Of Offense	G.S. No.	Felt./M.	Class	Max. Term	Presumptive
6 COUNTS SECOND DEGREE BURGLARY	DECEMBER 19[illegible]	14-51[illegible]	F	D	40	14

The Court, having considered evidence, argument of counsel and statement of defendant, finds that the defendant's plea was freely voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a term of 20 YEARS

in the custody of the ☒ N.C. Dept. of Correction ☐ Sheriff of County

The defendant shall be given credit for 195 days spent in confinement prior to the date of this Judgment as a result of this charge

☐ The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.

☐ The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:
(NOTE: List the Case Number, Date, County And Court In Which Prior Sentence Imposed.)

(check all that apply)

☐ The defendant shall serve as a committed youthful offender pursuant to G.S. Chapter 148, Article 3B.

☐ The defendant shall pay the costs.

☐ Immediate work release is recommended pursuant to G.S. 148-33.1.

☐ With the consent of the defendant, work release is ordered under the conditions set forth in the attached order. (applies to misdemeanants only)

☐ The Court does not recommend that the defendant be required to pay restitution or reparation, as a condition of parole if parole is granted, or from his earnings if work release is granted.

☐ The Court recommends that the defendant be required to pay, as a condition of parole if parole is granted, or from his earnings if work release is granted, the items and amounts set out below.

☐ The defendant should not obtain the benefit of release pursuant to G.S. 148-19.1.

☐ The defendant shall pay a fine of $

☐ Work release is not recommended.

Fine	Costs	Restitution	Reimbursement For Counsel Fee(s) And Other Expenses	Total Amount Due
$	$	$	$	$

Names and address(es) of aggrieved party (parties) to receive restitution (specify amount if more than one aggrieved party):

AOC-CR-601, Rev. 12/92 (Front) Material approved for mandatory use by the Administrative Office of the Courts and adopted by the State Judicial Council

The Court further recommends

MRT TO CMU

FOR USE WITH FAIR SENTENCING ACT FELONIES ONLY

The Court has considered the aggravating and mitigating factors in G.S. 15A-1340.4(a) and

☐ makes no written findings because the prison term imposed does not require such finding.

☒ makes no written findings because the prison term imposed is pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.

☐ makes written findings set forth on the attached Findings of Factors in Aggravation and Mitigation of Punishment (AOC-CR-303).

AWARD OF FEE TO COUNSEL FOR DEFENDANT

☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT

It is ORDERED that the Clerk deliver three certified copies of this Judgment and Commitment to the Sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until he shall have complied with the conditions of release pending appeal.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
8-11-93	ROBERT L. FARMER	

APPEAL ENTRIES

☐ The defendant gives notice of appeal from the judgment of the District Court to the Superior Court. The current pretrial release order shall remain in effect. ☐ except that

☐ The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on Form AOC-CR-350.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge

ORDER OF COMMITMENT AFTER APPEAL

Date Remanded To District Court	Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the Sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official three certified copies of this Judgment and this Order as authority for the commitment and detention of the defendant.

Date	Signature Of Clerk
	☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

CERTIFICATION

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.

☒ Findings Of Factors In Aggravation And Mitigation Of Punishment (AOC-CR-303)

☐ Determination Of Sentencing Factors In DWI Cases (AOC-CR-311)

☐ Appeal Entries (AOC-CR-350)

Date	Signature And Seal
Date Certified Copies Delivered To Sheriff	☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

Material opposite unmarked squares is to be disregarded as surplusage.

```
910 WAKE                        ICA INQUIRY 51  93CRS000041     FILM: 9301400035
DISPOSED                        R  S DOB/AGE      CRS    FILING DATE: 020293
INDICTMENT                      W  M        2 DL#:
HILL,DONALD                                    CIT#:          TRIAL DATE: 080993
          Y HILL ROA  D                  CSLR:          CSLRC:          AM
WAKE FOREST      NC          DEF ATTY: P MASTROMICHALIS          TYP: A    VRA:
CHG/ARRN OFFN: F FIRST DEGREE BURGLARY                          14-51
COMPLAINANT: PEARCE,K,E                        SFF ISSUED: 010193   SERVED: 010193
OFFN DATE: 122892    ARRN DATE: 032993  MOTIONS DATE:          DISP DATE: 081293
CONT. D: 00 S: 00 C: 00 NR: 00                                          DV CV: N

PLEA VERDICT MOD   FINE      COSTS      REST      JUDGE    PAID   TO-BE-PAID
 GL    GL    JU  $         $          $
CONV OFFN: F SECOND DEGREE BURGLARY                          14-51
SENT LEN:      -          SENT TYPE:                CONS F/JGMT:
PROB:                     WITHDRAWN:                APPEALED TO SUPERIOR:
AREA CD:    ACCD:   HWY:          V LIC:                TRANS TO SUPERIOR: 020293
CDL:    CMV:    HAZ:     TRP/DIST:    V ST:    V TYP:          APPELLATE:
CONSOL W/93CRS040


ARREST DATE: 010193 CHECK DIGIT: G20151J SID: NC0238973A LID:
NEXT#:                    PF2 - NAME INQUIRY                ADDL CHARGES:
```

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910 WAKE                    ICA INQUIRY 51   93CRS001531      FILM: 9301400039
DISPOSED                    R  S DOB/AGE      CRS    FILING DATE: 020293
INDICTMENT                  W  M              DL#:
HILL,DONALD,HAMILTON,JR                       CIT#:          TRIAL DATE: 080993
                                                                        AM
WCJ                                    CSLR:          CSLRC:
RALEIGH          NC          DEF ATTY: P MASTROMICHALIS      TYP: A    VRA:
CHG/ARRN OFFN: F FIRST DEGREE BURGLARY                              14-51
COMPLAINANT: SINCLAIR,R,C                        CPD ISSUED: 010693   SERVED: 010693
OFFN DATE: 121892    ARRN DATE: 032993  MOTIONS DATE:          DISP DATE: 081293
CONT. D: 00 S: 00 C: 00 NR: 00                                          DV CV: N

PLEA VERDICT MOD  FINE      COSTS      REST       JUDGE    PAID   TO-BE-PAID
 GL    GL     JU  $         $          $
CONV OFFN: F SECOND DEGREE BURGLARY                                 14-51
SENT LEN:      -          SENT TYPE:                CONS F/JGMT:
PROB:                     WITHDRAWN:                APPEALED TO SUPERIOR:
AREA CD:    ACCD:   HWY:          V LIC:            TRANS TO SUPERIOR: 020293
CDL:    CMV:    HAZ:    TRP/DIST:  V  V ST:   V TYP:        APPELLATE:
CONSOL W/93CRS040.

ARREST DATE: 010693 CHECK DIGIT: H55745W SID: NC0238973A LID:
NEXT#:                    PF2 - NAME INQUIRY              ADDL CHARGES:
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910 WAKE ICA INQUIRY 51 93CRS001532 FILM: 9301400140
DISPOSED R S DOB/AGE CRS FILING DATE: 020293
INDICTMENT W M ( )L#:
HILL,DONALD,HAMILTON,JR CIT#: TRIAL DATE: 080993
WCJ CSLR: CSLRC: AM
RALEIGH NC DEF ATTY: P MASTROMICHALIS TYP: A VRA:
CHG/ARRN OFFN: F FIRST DEGREE BURGLARY 14-51
COMPLAINANT: SINCLAIR,R,C CPD ISSUED: 010693 SERVED: 010693
OFFN DATE: 121892 ARRN DATE: 032993 MOTIONS DATE: DISP DATE: 081293
CONT. D: 00 S: 00 C: 00 NR: 00 DV CV: N

PLEA	VERDICT	MOD	FINE	COSTS	REST	JUDGE	PAID	TO-BE-PAID
GL	GL	JU	$	$	$			

CONV OFFN: F SECOND DEGREE BURGLARY 14-51
SENT LEN: - SENT TYPE: CONS F/JGMT:
PROB: WITHDRAWN: APPEALED TO SUPERIOR:
AREA CD: ACCD: HWY: V LIC: TRANS TO SUPERIOR: 020293
CDL: N CMV: N HAZ: N TRP/DIST: V ST: V TYP: APPELLATE:
CONSOL W/93CRS040

ARREST DATE: 010693 CHECK DIGIT: H55745W SID: NC0238973A LID:
NEXT#: PF2 - NAME INQUIRY ADDL CHARGES:

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910 WAKE                        ICA INQUIRY 51   93CRS001754      FILM: 9301400141
DISPOSED                        R  S DOB/AGE      CRS    FILING DATE: 020293
INDICTMENT                      W  M      32 DL#:
HILL, DONALD HAMILTON, JR                          CIT#:          TRIAL DATE: 080993
2                                                CSLR:      CSLRC:          AM
ANDERSON          SC  29621  DEF ATTY: P MASTROMICHALIS          TYP: A    VRA:
CHG/ARRN OFFN: F FIRST DEGREE BURGLARY                                14-51
COMPLAINANT: CURRIN, D, L                          SFF ISSUED: 010893  SERVED: 010893
OFFN DATE: 121192   ARRN DATE: 032993  MOTIONS DATE:              DISP DATE: 081293
CONT: D: 00 S: 00 C: 00 NR: 00                                          DV CV: N

PLEA VERDICT MOD   FINE       COSTS       REST       JUDGE    PAID   TO-BE-PAID
 GL    GL    JU  $          $           $
CONV OFFN: F SECOND DEGREE BURGLARY                                   14-51
SENT LEN:      -       SENT TYPE:                  CONS F/JGMT:
PROB:                  WITHDRAWN:                  APPEALED TO SUPERIOR:
AREA CD:    ACCD:   HWY:        V LIC:             TRANS TO SUPERIOR: 020293
CDL: N  CMV: N  HAZ: N   TRP/DIST:    V ST:    V TYP:          APPELLATE:
CONSOL W/93CRS040


ARREST DATE: 010893 CHECK DIGIT: H55696J SID: NC0238973A LID:
NEXT#:                  PF2 - NAME INQUIRY                  ADDL CHARGES:
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910 WAKE                          ICA INQUIRY 51  93CRS003370     FILM: 9301400047
DISPOSED                          R  S DOB/AGE      CRS    FILING DATE: 020293
INDICTMENT                                    DL#:
HILL,DONALD,HAMILTON,JR                       CIT#:          TRIAL DATE: 021193
                                          CSLR:        CSLRC:          AM
ANDERSON          SC        DEF ATTY: P.MASTROMICHALIS        TYP: A    VRA:
CHG/ARRN OFFN: F FIRST DEGREE BURGLARY                          14-51
COMPLAINANT: CURRIN,D,L                       SFF ISSUED: 011193   SERVED: 012093
OFFN DATE: 121192    ARRN DATE: 032993  MOTIONS DATE:          DISP DATE: 081293
CONT. D: 00 S: 00 C: 00 NR: 00                                        DV CV: N

PLEA VERDICT MOD    FINE       COSTS       REST      JUDGE    PAID    TO-BE-PAID
 GL    GL    JU  $          $           $
CONV OFFN: F SECOND DEGREE BURGLARY                             14-51
SENT LEN:      -          SENT TYPE:                CONS F/JGMT:
PROB:                     WITHDRAWN:                APPEALED TO SUPERIOR:
AREA CD:    ACCD:    HWY:          V LIC:                TRANS TO SUPERIOR: 020293
CDL:    CMV:    HAZ:      TRP/DIST:    V ST:      V TYP:          APPELLATE:
CONSOL W/93CRS040


ARREST DATE: 012093 CHECK DIGIT: H556835 SID: NC0238973A LID:
NEXT#:                    PF2 - NAME INQUIRY                ADDL CHARGES:
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910 WAKE                    ICA INQUIRY 51   93CRS000040      FILM: 9301600058
DISPOSED                    R  S DOB/AGE      CRS     FILING DATE: 020293
INDICTMENT                  W  M ______  DL#:
HILL,DONALD                                CIT#:          TRIAL DATE: 080993
                                                                       AM
                      D                CSLR:          CSLRC:
WAKE FOREST        NC          DEF ATTY: P MASTROMICHALIS      TYP: A   VRA:
CHG/ARRN OFFN: F FIRST DEGREE BURGLARY                              14-51
COMPLAINANT: PEARCE,K,E                          SFF ISSUED: 010193  SERVED: 010193
OFFN DATE: 122892    ARRN DATE: 032993  MOTIONS DATE:          DISP DATE: 081193
CONT. D: 00 S: 00 C: 00 NR: 00                                        DV CV: N

PLEA VERDICT MOD   FINE       COSTS       REST       JUDGE   PAID   TO-BE-PAID
 GL    GL    JU  $          $           $           RF
CONV OFFN: F SECOND DEGREE BURGLARY                                 14-51
SENT LEN: 020 Y -          SENT TYPE:                CONS F/JGMT:
PROB:                      WITHDRAWN:                APPEALED TO SUPERIOR:
AREA CD:    ACCD:   HWY:          V LIC:           TRANS TO SUPERIOR: 020293
CDL: N  CMV: N  HAZ: N   TRP/DIST:     V ST:     V TYP:        APPELLATE:
J.FARMER, 195 DAYS CR;DART PROG
12/16/99-ORDER SIGNED FOR ADDITIONAL 29 DAYS JAIL CREDIT

ARREST DATE: 010193 CHECK DIGIT: G20151J SID: NC0238973A LID:
                          PF2 - NAME INQUIRY                ADDL CHARGES:
NEXT#:
```

JUN. 8. 2010 1:26PM SPTBG CO SOLICITOR

State of North Carolina
General Court of Justice
CLERK OF SUPERIOR COURT
WAKE COUNTY

SONYA CLODFELTER
ASSISTANT CLERK

P.O. Box 351
Raleigh, NC 27602-0351

PHONE: (919) 792-4406
SONYA.S.CLODFELTER@NCCOURTS.ORG

FAX TRANSMISSION

DATE: October 3, 2013

TO: Jackie or Tommy Thomas

FAX #: 803-781-4226

FROM: Sonya S. Clodfelter, Assistant Clerk, Wake County

FAX#: (919) 792-4016

TOTAL NUMBER OF PAGES BEING TRANSMITTED INCLUDING COVER SHEET: 8

IF THERE IS A PROBLEM WITH THE RECEIPT OF THIS TRANSMITTAL, PLEASE CALL (919) 792-4406

REMARKS:

STATE OF NORTH CAROLINA

WAKE County

File No. 93 CRS 740

Film No. 93-140-34

THE STATE OF NORTH CAROLINA VS.

Name And Address Of Defendant
DONALD [redacted] JR
[redacted]
Anderson, S.C. 29621 W/M DOB [redacted]

SUPERIOR COURT CRIMINAL DOCKET

Name Of Defense Attorney
H. Mason Thomas, Jr.

Amount Of Bond | Surety

Name Of Prosecuting Attorney

Offense
BURGLARY

Names And Addresses Of Witnesses
K.F. Pearce, D.C.I., CPD
Richard McBane, [redacted] Nic.

DATE	DOCKET ENTRIES
	☐ Warrant For Arrest ☐ Citation ☐ Criminal Summons ☒ Magistrate's Order
	☐ Appeal From District Court Probable Cause ☐ Found ☐ Waived
	☐ Superseding Indictment ☐ True Bill Returned ☐ Not A True Bill Returned
	notice Indict to Atty
4-6-93	SLP
4-16-93	Judgment

STATE OF NORTH CAROLINA

Duke County

File No. 93CRS 7270 / 7271 / 75

In The General Court Of Justice
☐ District ☒ Superior Court Division

STATE VERSUS

Name Of Defendant: Donald L. Luffy

TRANSCRIPT OF PLEA

G.S. 15A-1022

The defendant, having offered a plea of guilty and being first duly sworn, makes the following answers to the questions set out below:

	Answers
1. Are you able to hear and understand me?	Yes
2. Do you understand that you have the right to remain silent and that any statement you make may be used against you?	Yes
3. Are you now under the influence of alcohol, drugs, narcotics, medicine, pills, or any other intoxicants? (a) When was the last time you used or consumed any such substance?	No 3 months
4. Have you discussed your case fully with your lawyer and are you satisfied with his legal services?	Yes
5. (a) Do you understand that you are pleading (guilty) (~~no contest~~) to the felonies of: Att Robbery (4 counts)	Yes
5. (b) Do you understand that you are pleading (guilty) (no contest) to the misdemeanors of:	
6. Have the charges been explained to you by your lawyer, and do you understand the nature of the charges, and do you understand every element of each charge?	Yes
7. Do you understand that upon your plea you could be imprisoned for a possible maximum sentence of 20 years ____ months (and that the mandatory minimum sentence is 14 years ____ months) (or you could be fined up to $ ____) (or you could be both imprisoned and fined)?	Yes
8. Do you understand that you have the right to plead not guilty and be tried by a jury and at such trial to be confronted with and to cross-examine the witnesses against you, and by this plea you give up these and your other constitutional rights relating to trial by jury?	Yes
9. Do you understand that, if you are not a citizen of the United States of America, this plea may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law?	Yes
10. Do you now personally plead (guilty) (no contest)?	Yes
11. (a) *(If applicable)* Are you in fact guilty?	Yes
(b) *(If applicable)* Do you understand that upon your plea of no contest you will be treated as being guilty whether or not you admit your guilt?	Yes
12. Have you agreed to plead as a part of a plea arrangement? Before you answer, I advise you that the Courts have approved plea negotiating, and if there is such, you may advise me truthfully without fear of incurring my disapproval.	Yes

	Answers
13. (If applicable) The prosecutor and your lawyer have informed the Court that these are all the terms and conditions of your plea. [illegible]	
(a) Is this correct as being your full plea arrangement?	Yes
(b) Do you now personally accept this arrangement?	Yes
14. (Other than the plea arrangement between you and the prosecutor) has anyone made any promises or threatened you in any way to cause you to enter this plea against your wishes?	No
15. Do you enter this plea of your own free will, fully understanding what you are doing?	Yes
16. Do you have any questions about what has just been said to you or about anything else connected with your case?	No

I am 31 years of age and have completed the 11th grade of school. *(List any additional education, if applicable.)*

I have read or have heard all of these questions and understand them. The answers shown are the ones I gave in open court and they are true and accurate. Neither my lawyer nor anyone else has told me to give false answers in order to have the Court accept my plea in this case. The conditions of the plea as stated above, if any, are accurate.

SWORN AND SUBSCRIBED TO BEFORE ME	Date
Date 8-11-93	Signature Of Defendant [illegible]
Signature Of Deputy Or Assistant Clerk [illegible]	Name Of Defendant (Type Or Print) DONALD H. [illegible]

CERTIFICATION BY LAWYER FOR DEFENDANT

As lawyer for the defendant named above, I hereby certify that the conditions stated above, if any, upon which the defendant's plea was entered are correct and they are agreed to by the defendant and myself upon which the defendant's plea was entered. I further certify that I have fully explained to the defendant the nature and elements of the charges to which he is pleading.

Date	Signature Of Lawyer For Defendant
8/11/93	[illegible]

CERTIFICATION BY PROSECUTOR

As prosecutor for the Prosecutorial District, I hereby certify that the conditions stated above, if any, are the terms agreed to by the defendant and his lawyer and myself for the entry of the plea by the defendant to the charge in this case.

Date	Signature Of Prosecutor
8-11-93	[illegible]

PLEA ADJUDICATION

Upon consideration of the record proper, evidence presented, answers of defendant, and statements of the lawyer for the defendant and the prosecutor, the undersigned finds:

1. That there is a factual basis for the entry of the plea.
2. That the defendant is satisfied with his lawyer.
3. That the defendant is competent to stand trial and that the plea is the informed choice of the defendant and is made freely, voluntarily and understandingly.

The defendant's plea is hereby accepted by the Court and it is so ordered.

Date	Signature Of Presiding Judge
8-11-93	[illegible]

AOC-CR-300, Rev. 12/90

STATE OF NORTH CAROLINA — File No. 93 CRS 1270 - [illegible]

WAKE County — RALEIGH Seat Of Court — In The General Court Of Justice, ☐ District ☒ Superior Court Division

NOTE: *(This form is not to be used for multiple offenses unless they are consolidated for judgment.)*

STATE VERSUS

Defendant: DONALD H. [illegible] JR.

Race	Sex	DOB	
W	M		☐ Pre-FSA Felony

JUDGMENT AND COMMITMENT

G.S. 15A-1301

Attorney For State: [illegible] — ☐ Def. Found Not Indigent — ☐ Def. Waived Attorney

Attorney For Defendant: MASTERMICHAELS — ☐ Appointed ☐ Retained

☐ DWI Offense — Level Of Punishment (G.S. 20-179) —

Driver's License No. (DWI Only) — State (DWI Only)

The defendant ☒ pled guilty to ☐ was found guilty by the Court of ☐ was found guilty by a jury of ☐ pled no contest to:

File No.(s) And Offense(s)	Date Of Offense	G.S. No.	Ref. M.	Class	Max. Term	Presump.
6 COUNTS SECOND DEGREE BURGLARY	DECEMBER 1992	14-51	F	D	40	14

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was free voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be impriso

for a term of 20 YEARS — ☒ In the custody of the: ☒ N.C. Dept. of Correction. ☐ Sheriff of _____ County

The defendant shall be given credit for 195 days spent in confinement prior to the date of this Judgment as a result of this charg

☐ The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.

☐ The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

NOTE: *List the Case Number, Date, County And Court In Which Prior Sentence Imposed.)*

(check all that apply)

☐ The defendant shall serve as a committed youthful offender pursuant to G.S. Chapter 148, Article 3B.

☐ The defendant shall pay the costs.

☐ The defendant work release is recommended pursuant to G.S. 148-33.1.

☐ With the consent of the defendant work release is ordered under the conditions set forth in the attached order. *(applies to misdemeanors only)*

☐ The Court does not recommend that the defendant be required to pay restitution or reparation, as a condition of parole if parole is granted, or from his earnings if work release is granted.

☐ The Court recommends that the defendant be required to pay, as a condition of parole if parole is granted, or from his earnings if work release is granted, the items and amounts set out below.

☐ The defendant should not obtain the benefit of release pursuant to G.S. 148-4(b).

☐ The defendant shall pay a fine of $ _____

☐ Work release is not recommended.

Fine	Costs	Restitution	Reimbursement For Court-Appointed Fee(s) And Other Expenses	Total Amount Due
$	$	$	$	$

Names and addresses of aggrieved party (parties) to receive restitution (specify amount if more than one aggrieved party)

ADS OR [illegible] — Motor Top Soil Unmet Concrete [illegible] Corrected Unofficial

The Court further recommends:

PART II. (CONT'D)

FOR USE WITH FAIR SENTENCING ACT FELONIES ONLY

The Court has considered the aggravating and mitigating factors in G.S. 15A-1340.4(a) and

☐ makes no written findings because the prison term imposed does not require such findings.

☒ makes no written findings because the prison term imposed is pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.

☐ makes written findings set forth on the attached Findings of Factors in Aggravation and Mitigation of Punishment (AOC-CR-303).

AWARD OF FEE TO COUNSEL FOR DEFENDANT

☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT

It is ORDERED that the Clerk deliver three certified copies of this Judgment and Commitment to the Sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until he shall have complied with the conditions of release pending appeal.

Date	*Name Of Presiding Judge (Type Or Print)*	*Signature Of Presiding Judge*
5-1-05	ROBERT L. FARMER	

APPEAL ENTRIES

☐ The defendant gives notice of appeal from the judgment of the District Court to the Superior Court. The current pretrial release order shall remain in effect. ☐ except that:

☐ The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on Form AOC-CR-350.

Date	*Name Of Presiding Judge (Type Or Print)*	*Signature Of Presiding Judge*

ORDER OF COMMITMENT AFTER APPEAL

Date Remanded To District Court	*Date Appeal Dismissed*	*Date Withdrawal Of Appeal Filed*	*Date Appellate Opinion Certified*

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the Sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official three certified copies of this Judgment and this Order as authority for the commitment and detention of the defendant.

Date	*Signature Of Clerk*
	☐ *Deputy CSC* ☐ *Assistant CSC* ☐ *Clerk Of Superior Court*

CERTIFICATION

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.

☒ Findings Of Factors In Aggravation And Mitigation Of Punishment (AOC-CR-303)

☒ Determination Of Sentencing Factors In DWI Cases (AOC-CR-311)

☐ Appeal Entries (AOC-CR-350)

Date	*Signature And Seal*

Date Certified Copies Delivered To Sheriff	
	☐ *Deputy CSC* ☐ *Assistant CSC* ☐ *Clerk Of Superior Court*

Material opposite unmarked squares is to be disregarded as surplusage.

STATE OF NORTH CAROLINA — File No. 95 CRS 20170, 19610, 32, 1754

WAKE County — RALEIGH Seat Of Court — In The General Court Of Justice: ☐ District ☒ Superior Court Division

NOTE: *(This form is not to be used for multiple offenses unless they are consolidated for judgment.)*

STATE VERSUS

AMENDED

JUDGMENT AND COMMITMENT

G.S. 15A-1301

Defendant				
LEWALD, JILL, JR.				
Race: W	Sex: M	DOB: 7	☐ Pre FSA Felony	
Attorney For State: BRESNER	☒ Def. Found Not Indigent	☐ Def. Waived Attorney	Attorney For Defendant: MOSS, MICHAEL S.	☒ Appointed ☐ Retained
☐ DWI Offense	Level Of Punishment (G.S. 20-179)		Driver's License No. (DWI Only)	State (DWI Only)

The defendant ☒ pled guilty to ☐ was found guilty by the Court of ☐ was found guilty by a jury of ☐ Pled no contest to

File No.(s) And Offense(s)	Date Of Offense	G.S. No.	Ref. M.	Class	Max. Term	Presumptive
6 COUNTS: SECOND DEGREE BURGLARY	DECEMBER, 1992	14-51	F	D	40	14

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was free voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a term of: 20 YEARS

☒ In the custody of the: ☒ N.C. Dept. of Correction ☐ Sheriff of ____ County

The defendant shall be given credit for 195 days spent in confinement prior to the date of this judgment as a result of this charge

☐ The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.

☐ The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below: *(NOTE: List the Case Number, Date, County And Court In Which Prior Sentence Imposed.)*

(Check All That Apply)

☐ The defendant shall serve as a committed youthful offender pursuant to G.S. Chapter 148, Article 3B.

☐ The defendant shall pay the costs.

☐ Immediate work release is recommended pursuant to G.S. 148-33.1

☐ With the consent of the defendant, work release is ordered under the conditions set forth in the attached order. *(applies to misdemeanants only)*

☐ The Court does not recommend that the defendant be required to pay restitution or reparation as a condition of parole if parole is granted or from his earnings if work release is granted.

☐ The Court recommends that the defendant be required to pay, as a condition of parole if parole is granted, or from his earnings if work release is granted, the costs and amounts set forth below.

☐ The defendant should not obtain the benefit of release pursuant to G.S. 148-33.1.

☐ The defendant shall pay a fine of $

☐ Work release is recommended

☐ Work release is not recommended

Fine: $	Costs: $	Restitution: $	Reimbursement For Counsel Fee(s) And Other Expenses: $	Total Amount Due: $

Names and addresses of aggrieved party (parties) to receive restitution (specify amount if more than one aggrieved party)

Additional findings: Motion to appeal during trial recognized & to be addressed during appeal

The Court further recommends:

(AOC-CR-301)

FOR USE WITH FAIR SENTENCING ACT FELONIES ONLY

The Court has considered the aggravating and mitigating factors in G.S. 15A-1340.4(a) and:

☐ makes no written findings because the prison term imposed does not require such findings.

☒ makes no written findings because the prison term imposed is pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.

☐ makes written findings set forth on the attached Findings of Factors in Aggravation and Mitigation of Punishment (AOC-CR-303).

AWARD OF FEE TO COUNSEL FOR DEFENDANT

☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT

It is ORDERED that the Clerk deliver three certified copies of this Judgment and Commitment to the Sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until he shall have complied with the conditions of release pending appeal.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
8-11-93	ROBERT L. FARMER	

APPEAL ENTRIES

☐ The defendant gives notice of appeal from the judgment of the District Court to the Superior Court. The current pretrial release order shall remain in effect ☐ except that:

☒ The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post-conviction release are set forth on Form AOC-CR-350.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge

ORDER OF COMMITMENT AFTER APPEAL

Date Remanded To District Court	Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the Sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official three certified copies of this Judgment and this Order as authority for the commitment and detention of the defendant.

Date	Signature Of Clerk
	☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

CERTIFICATION

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.

☐ Findings Of Factors In Aggravation And Mitigation Of Punishment (AOC-CR-303)

☐ Determination Of Sentencing Factors In DWI Cases (AOC-CR-311)

☒ Appeal Entries (AOC-CR-350)

Date	Signature And Seal
Date Certified Copies Delivered To Sheriff	☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

Material opposite unmarked squares is to be disregarded as surplusage.

STATE OF NORTH CAROLINA

WAKE County

THE STATE OF NORTH CAROLINA VS.

Name And Address Of Defendant
DONALD H. HILL, JR
Aridesum, S.C. 29621 W/M DOB 2

Name Of Defense Attorney
J. Mastromichalis, Appt

Name Of Prosecuting Attorney

File No.
93 CRS 40

Film No.
93-140-34

SUPERIOR COURT CRIMINAL DOCKET

Amount Of Bond | Surety

Offense
BURGLARY

Names And Addresses Of Witnesses
K.R. Pearce, D.C. Court, RPD
Richard McRanie, Way, Raleigh, N.C.

DATE	DOCKET ENTRIES
	☐ Warrant For Arrest ☐ Citation ☐ Criminal Summons ☐ Magistrate's Order
	☐ Appeal From District Court Probable Cause ☐ Found ☐ Waived
	☐ Superseding Indictment ☐ True Bill Returned ☐ Not A True Bill Returned
	notice Indict to Atty
9-6-93	Sent
11-16-93	Judgment

AOCR400
(Rev. 6/91)

STATE OF NORTH CAROLINA

File No. 93CRS 1370, 1537, 15

Duke County

In The General Court Of Justice
☐ District ☒ Superior Court Division
17542000440

STATE VERSUS

Name Of Defendant
Donald Ray Leidy Jr.

TRANSCRIPT OF PLEA

G.S. 15A-1022

The defendant, having offered a plea of guilty and being first duly sworn, makes the following answers to the questions set out below:

		Answers
1	Are you able to hear and understand me?	Yes
2	Do you understand that you have the right to remain silent and that any statement you make may be used against you?	Yes
3	Are you now under the influence of alcohol, drugs, narcotics, medicine, pills or any other intoxicants?	NO
	(a) When was the last time you used or consumed any such substance?	5 months
4	Have you discussed your case fully with your lawyer and are you satisfied with his legal services?	Yes
5	(a) Do you understand that you are pleading (guilty) (~~no contest~~) to the felonies of: 2nd Degree Burglary (6 counts)?	Yes
5	(b) Do you understand that you are pleading (guilty) (no contest) to the misdemeanors of: ?	
6	Have the charges been explained to you by your lawyer, and do you understand the nature of the charges, and do you understand every element of each charge?	Yes
7	Do you understand that upon your plea you could be imprisoned for a possible maximum sentence of 30 years ____ months (and that the mandatory minimum sentence is 15 years ____ months) (or you could be fined up to $____) (or you could be both imprisoned and fined)?	Yes
8	Do you understand that you have the right to plead not guilty and be tried by a jury and at such trial to be confronted with and to cross-examine the witnesses against you, and by this plea you give up these and your other constitutional rights relating to trial by jury?	Yes
9	Do you understand that, if you are not a citizen of the United States of America, this plea may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law?	Yes
10	Do you now personally plead (guilty) (no contest)?	Yes
11	(a) *(if applicable)* Are you in fact guilty?	Yes
	(b) *(if applicable)* Do you understand that upon your plea of no contest you will be treated as being guilty whether or not you admit your guilt?	Yes
12	Have you agreed to plead as a part of a plea arrangement? Before you answer, I advise you that the Courts have approved plea negotiating, and if there is such, you may advise me truthfully without fear of incurring my disapproval.	Yes

13. *(If applicable)* The prosecutor and your lawyer have informed the Court that these are all the terms and conditions of your plea. — Answers

The Defendant will receive a sentence of 20 years

(a) Is this correct as being your full plea arrangement? — Yes
(b) Do you now personally accept this arrangement? — Yes

14. (Other than the plea arrangement between you and the prosecutor) has anyone made any promises or threatened you in any way to cause you to enter this plea against your wishes? — No

15. Do you enter this plea of your own free will, fully understanding what you are doing? — Yes

16. Do you have any questions about what has just been said to you or about anything else connected with your case? — No

I am 31 years of age and have completed the 11th grade of school. *(List any additional education, if applicable.)*

I have read or have heard all of these questions and understand them. The answers shown are the ones I gave in open court and they are true and accurate. Neither my lawyer nor anyone else has told me to give false answers in order to have the Court accept my plea in this case. The conditions of the plea as stated above, if any, are accurate.

SWORN AND SUBSCRIBED TO BEFORE ME	Date
Date: 8-11-93	Signature Of Defendant: Donald H. Hall, Jr.
Signature Of Deputy Or Assistant CSC: [illegible]	Name Of Defendant (Type Or Print): DONALD H. HALL, JR.

CERTIFICATION BY LAWYER FOR DEFENDANT

As lawyer for the defendant named above, I hereby certify that the conditions stated above, if any, upon which the defendant's plea was entered are correct and they are agreed to by the defendant and myself upon which the defendant's plea was entered. I further certify that I have fully explained to the defendant the nature and elements of the charges to which he is pleading.

Date	Signature Of Lawyer For Defendant
8/11/93	[illegible]

CERTIFICATION BY PROSECUTOR

As prosecutor for this Prosecutorial District, I hereby certify that the conditions stated above, if any, are the terms agreed to by the defendant and his lawyer and myself for the entry of the plea by the defendant to the charge in this case.

Date	Signature Of Prosecutor
8-11-93	[illegible]

PLEA ADJUDICATION

Upon consideration of the record proper, evidence presented, answers of defendant, and statements of the lawyer for the defendant and the prosecutor, the undersigned finds:

1. That there is a factual basis for the entry of the plea.
2. That the defendant is satisfied with his lawyer.
3. That the defendant is competent to stand trial and that the plea is the informed choice of the defendant and is made freely, voluntarily and understandingly.

The defendant's plea is hereby accepted by the Court and is ordered recorded.

Date	Signature Of Presiding Judge
8/11/93	[illegible]

STATE OF NORTH CAROLINA

File No. 93 CRS 3370, 1531, 32, 1754, 40, 41

WAKE County | RALEIGH Seat Of Court | In The General Court Of Justice

NOTE: *(This form is not to be used for multiple offenses unless they are consolidated for judgment.)*

☐ District ☒ Superior Court Division

STATE VERSUS

Defendant: DONALD H. HILL, JR.

JUDGMENT AND COMMITMENT

G.S. 15A-1301

Race	Sex	DOB	Pre-FSA Felony
W	M		☐

Attorney For State: BREWER | ☐ Def. Found Not Indigent | ☐ Def. Waived Attorney

Attorney For Defendant: MASTIN/MICHAELS ☐ Appointed ☐ Retained

DWI Offense ☐ | Level Of Punishment (G.S. 20-179) | Driver's License No. (DWI Only) | State (DWI Only)

The defendant ☒ pled guilty to: ☐ was found guilty by the Court of: ☐ was found guilty by a jury of: ☐ pled no contest to:

File No.(s) And Offense(s)	Date Of Offense	G.S. No.	Fel./M.	Class	Max. Term	Presumptive
6 COUNTS SECOND DEGREE BURGLARY	DECEMBER 1992	14-51	F	D	40	14

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a term of 20 YEARS in the custody of the ☒ N.C. Dept. of Correction ☐ Sheriff of _____ County

The defendant shall be given credit for 195 days spent in confinement prior to the date of this Judgment as a result of this charge

☐ The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.

☐ The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:
(NOTE: *List the Case Number, Date, County And Court In Which Prior Sentence Imposed.*)

(check all that apply)

☐ The defendant shall serve as a committed youthful offender pursuant to G.S. Chapter 148, Article 9B.

☐ The defendant should not obtain the benefit of release pursuant to G.S. 148-49.15.

☐ The defendant shall pay the costs.

☐ The defendant shall pay a fine of $ _____

☐ Immediate work release is recommended pursuant to G.S. 148-33.1.

☐ Work release is recommended.

☐ Work release is not recommended.

☐ With the consent of the defendant, work release is ordered under the conditions set forth in the attached order *(applies to misdemeanants only)*.

☐ The Court does not recommend that the defendant be required to pay restitution or reparation, as a condition of parole if parole is granted, or from his earnings if work release is granted.

☐ The Court recommends that the defendant be required to pay, as a condition of parole if parole is granted, or from his earnings if work release is granted, the items and amounts set out below.

Fine	Costs	Restitution	Reimbursement For Counsel Fee(s) And Other Expenses	Total Amount Due
$	$	$	$	$

Names and address(es) of aggrieved party (parties) to receive restitution *(specify amount if more than one aggrieved party)*

The Court further recommends:

DART TR CRVM

FOR USE WITH FAIR SENTENCING ACT FELONIES ONLY

The Court has considered the aggravating and mitigating factors in G.S. 15A-1340.4(a) and

☐ makes no written findings because the prison term imposed does not require such findings.

☒ makes no written findings because the prison term imposed is pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.

☐ makes written findings set forth on the attached Findings of Factors in Aggravation and Mitigation of Punishment (AOC-CR-303).

AWARD OF FEE TO COUNSEL FOR DEFENDANT

☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT

It is ORDERED that the Clerk deliver three certified copies of this Judgment and Commitment to the Sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until he shall have complied with the conditions of release pending appeal.

Date	*Name Of Presiding Judge (Type Or Print)*	*Signature Of Presiding Judge*
8-1-293	ROBERT L. FARMER	

APPEAL ENTRIES

☐ The defendant gives notice of appeal from the judgment of the District Court to the Superior Court. The current pretrial release order shall remain in effect. ☐ except that:

☒ The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on Form AOC-CR-350.

Date	*Name Of Presiding Judge (Type Or Print)*	*Signature Of Presiding Judge*

ORDER OF COMMITMENT AFTER APPEAL

Date Remanded To District Court	*Date Appeal Dismissed*	*Date Withdrawal Of Appeal Filed*	*Date Appellate Opinion Certified*

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the Sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official three certified copies of this Judgment and this Order as authority for the commitment and detention of the defendant.

Date	*Signature Of Clerk*
	☐ *Deputy CSC* ☐ *Assistant CSC* ☐ *Clerk Of Superior Court*

CERTIFICATION

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.

☐ Findings Of Factors In Aggravation And Mitigation Of Punishment (AOC-CR-303)

☐ Determination Of Sentencing Factors In DWI Cases (AOC-CR-311)

☐ Appeal Entries (AOC-CR-350)

Date	*Signature And Seal*
Date Certified Copies Delivered To Sheriff 8/2/93	☐ *Deputy CSC* ☐ *Assistant CSC* ☐ *Clerk Of Superior Court*

Material opposite unmarked squares is to be disregarded as surplusage.

STATE OF NORTH CAROLINA — File No. 93 CRS 3370 1531 32 1754 40 41

WAKE County — RALEIGH Seat Of Court — In The General Court Of Justice — ☐ District ☒ Superior Court Division

NOTE: *(This form is not to be used for multiple offenses unless they are consolidated for judgment.)*

STATE VERSUS

Defendant: DONALD H. HILL, JR.

Race	Sex	DOB	Pre-FSA Felony
W	M		☐

AMENDED

JUDGMENT AND COMMITMENT

G.S. 15A-130

Attorney For State	Def. Found Not Indigent	Def. Waived Attorney	Attorney For Defendant	Appointed	Retained
BREWER	☐	☒	MASTERMICHAELS	☒	☐

DWI Offense	Level Of Punishment (G.S. 20-179)	Driver's License No. (DWI Only)	State (DWI Only)
☐			

The defendant ☒ pled guilty to ☐ was found guilty by the Court of ☐ was found guilty by a jury of ☐ pled no contest to:

File No.(s) And Offense(s)	Date Of Offense	G.S. No.	Fel./M.	Class	Max. Term	Presumptive
6 COUNTS SECOND DEGREE BURGLARY	DECEMBER 1992	14-51	F	D	40	14

The Court, having considered evidence, arguments of counsel and statement of defendant, finds that the defendant's plea was freely voluntarily, and understandingly entered, and Orders the above offenses be consolidated for judgment and the defendant be imprisoned

for a term of 20 YEARS — in the custody of the ☒ N.C. Dept. of Correction ☐ Sheriff of _____ County

The defendant shall be given credit for 195 days spent in confinement prior to the date of this Judgment as a result of this charge.

☐ The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.

☐ The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

(NOTE: List the Case Number, Date, County And Court In Which Prior Sentence Imposed.)

(check all that apply)

☐ The defendant shall serve as a committed youthful offender pursuant to G.S. Chapter 148, Article 3B.

☐ The defendant should not obtain the benefit of release pursuant to G.S. 148-49.15.

☐ The defendant shall pay the costs.

☐ Immediate work release is recommended ☐ Work release is recommended ☐ Work release is not recommended pursuant to G.S. 148-33.1.

☐ With the consent of the defendant, work release is ordered under the conditions set forth in the attached order *(applies to misdemeanants only)*.

☐ The defendant shall pay a fine of $ _____

☐ The Court does not recommend that the defendant be required to pay restitution or reparation, as a condition of parole if parole is granted, or from his earnings if work release is granted.

☐ The Court recommends that the defendant be required to pay, as a condition of parole if parole is granted, or from his earnings if work release is granted, the items and amounts set out below.

Fine	Costs	Restitution	Reimbursement For Counsel Fee(s) And Other Expenses	Total Amount Due
$	$	$	$	$

Names and address(es) of aggrieved party (parties) to receive restitution *(specify amount if more than one aggrieved party)*

The Court further recommends:

PART IV. CRIM

FOR USE WITH FAIR SENTENCING ACT FELONIES ONLY

The Court has considered the aggravating and mitigating factors in G.S. 15A-1340.4(a) and

☐ makes no written findings because the prison term imposed does not require such findings.

☐ makes no written findings because the prison term imposed is pursuant to a plea arrangement as to sentence under Article 58 of G.S. Chapter 15A.

☐ makes written findings set forth on the attached Findings of Factors in Aggravation and Mitigation of Punishment (AOC-CR-303).

AWARD OF FEE TO COUNSEL FOR DEFENDANT

☐ A hearing was held in open court in the presence of the defendant at which time a fee, including expenses, was awarded the defendant's appointed counsel or assigned public defender.

ORDER OF COMMITMENT

It is ORDERED that the Clerk deliver three certified copies of this Judgment and Commitment to the Sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until he shall have complied with the conditions of release pending appeal.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
8-11-93	ROBERT L. FARMER	

APPEAL ENTRIES

☐ The defendant gives notice of appeal from the judgment of the District Court to the Superior Court. The current pretrial release order shall remain in effect ☐ except that

☐ The defendant gives notice of appeal from the judgment of the Superior Court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on Form AOC-CR-350.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge

ORDER OF COMMITMENT AFTER APPEAL

Date Remanded To District Court	Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified

It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the Sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the official named in this Judgment and furnish that official three certified copies of this Judgment and this Order as authority for the commitment and detention of the defendant.

Date	Signature Of Clerk
	☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

CERTIFICATION

I certify that this Judgment and Commitment with the attachment marked below is a true and complete copy of the original which is on file in this case.

☐ Findings Of Factors In Aggravation And Mitigation Of Punishment (AOC-CR-303)

☐ Determination Of Sentencing Factors In DWI Cases (AOC-CR-311)

☐ Appeal Entries (AOC-CR-350)

Date	Signature And Seal

Date Certified Copies Delivered To Sheriff	
	☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court

Material opposite unmarked squares is to be disregarded as surplusage.

FORM 4

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

Donald Hamilton HILL, Jr. SCDC #341279

Applicant,

JUDGMENT IN A CIVIL CASE - PCR

CASE NO. 2012-CP-42-03735

The STATE of South Carolina,

Respondent.

CHECK ONE:

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other.

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

FILED
2019 SEP 23 AM 10
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

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

This matter came before this court for an evidentiary hearing on an application for post-conviction relief filed pursuant to *South Carolina Code Annotated Section 17-27-20.* After an evidentiary hearing was held in this matter, relief was denied and the application dismissed by order filed July 31, 2019. Applicant filed a timely Rule 59 motion.

After a reconsideration of the matter this Court finds that the order shall be amended to include the following two paragraphs:

"At the conclusion of the evidentiary hearing, the record was held open to allow Applicant to supplement the record with evidence of his relevant criminal history from the State of North Carolina which has been filed with the court and considered by the Court in its decision."

"The charges of Burglary to which Applicant pled guilty on June 14, 2010 were enhanced due to his prior criminal history from the State of North Carolina."

To the extent stated, Applicant's **MOTION** to **ALTER** or **AMEND** is **GRANTED.**

Dated at Spartanburg, South Carolina, this 20TH day of **SEPTEMBER, 2019.**

PRESIDING JUDGE, J. Derham Cole

This judgment was entered on the 23 day of **SEPTEMBER, 2019,** and a copy mailed first class this day of **SEPTEMBER, 2019** to attorneys of record or to parties (when appearing pro se) as follows:

TOMMY A. THOMAS, *Esq.*
Post Office Box 88
Irmo, South Carolina 29063

ATTORNEY(S) FOR THE APPLICANT

JOHNNY E. JAMES, JR., *Esq.*
Post Office Box 11549
Columbia, South Carolina 29211-1549

ATTORNEY(S) FOR THE RESPONDENT

Amy W. Cox Deputy Clerk 9/23/19

AMY W. COX, CLERK OF COURT

COPY MAILED

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED
DEC 02 2019
S.C. SUPREME COURT

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

J. Derham Cole, Circuit Court Judge

Case No.: 2019-001641

Donald Hamilton Hill, Jr.,..... Petitioner,

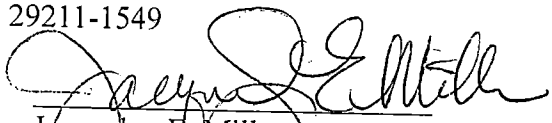
vs.

The State of South Carolina.....Respondent.

CERTIFICATE OF SERVICE

I, Jacquelyn E. Miller, secretary to Tommy A. Thomas, Attorney for the Petitioner, hereby certify that I placed in the United States Mail, a copy of a redacted Appendix with postage prepaid and the return address clearly shown on said envelope to Johnny Ellis James, Jr., Esq. at:

Office of the Attorney General
Attention: Johnny Ellis James, Jr., Esq.
P.O. Box 11549
Columbia, SC 29211-1549



Jacquelyn E. Miller
Secretary to Tommy A. Thomas
Attorney for Appellant
P.O. Box 88
Irmo, SC 29063
(803) 732-5507

Irmo, SC
November 26, 2019