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STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

S.C. SUPREME COURT

Certiorari to Lexington County

Brooks P. Goldsmith, Circuit Court Judge

STANLEY ALI GODBOLD,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2019-001114

APPENDIX

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State of South Carolina)
County of Lexington)
In the Court
Of General Sessions

Indictment No.: 2016-GS-32-3050

State of South Carolina,)
Plaintiff.)
vs.) Transcript of Record
Stanley Ali Godbold,)
Defendant.)

January 10, 2017
Lexington, South Carolina

B E F O R E:

The Honorable Jocelyn Newman, Judge.

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

Angela G. Martin, Assistant Solicitor
Attorney for the State

Sarah Mauldin, Esquire
Attorney for the Defendant

Brenda J. Sigwald, Circuit Court Reporter
To The Honorable R. Knox McMahon
P.O. Box 206, Jackson, South Carolina 29831

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(REPORTER'S NOTE: There were no exhibits entered during this hearing.)

1 THE CLERK: Stanley Godbold. 2016-GS-32-3050,
2 State versus Stanley Godbold, indicted for armed robbery
3 while armed with a deadly weapon. He is pleading as
4 charged. The indictment has been true billed. He's
5 represented by Ms. Mauldin.

6 STANLEY GODBOLD,

7 having been duly sworn, testified as follows:

8 THE COURT: All right. Ms. Mauldin, you represent
9 Mr. Godbold?

10 MS. MAULDIN: I do, Your Honor.

11 THE COURT: Have you explained to him the charge
12 against him the possible punishment and his constitutional
13 rights?

14 MS. MAULDIN: I have, Your Honor.

15 THE COURT: To this charge, does he tell you he
16 wants to plead guilty or not guilty?

17 MS. MAULDIN: Guilty, Your Honor.

18 THE COURT: You agree with his decision to plead
19 guilty?

20 MS. MAULDIN: I do, Your Honor.

21 THE COURT: You believe if required do so, the
22 State could prove him guilty of this offense beyond a
23 reasonable doubt?

24 MS. MAULDIN: Yes, Your Honor.

25 THE COURT: Mr. Godbold, are you currently under

1 the influence of any alcohol or drugs?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Do you take any medication or have any
4 physical, mental, or emotional condition that will prevent
5 you from understanding what you're doing here today?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: I understand you're here to plead
8 guilty of one count of armed robbery; is that correct?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: All right. Ms. Martin, let me hear the
11 facts.

12 MS. MARTIN: Thank you, Your Honor. May it please
13 the Court. Your Honor, on August 5th of 2016, it was about
14 6 o'clock in the morning, Ms. Amelia Gomez, who's present
15 in court today on the front row, she was a cashier at a
16 Quick Mart, convenience store in Batesburg/Leesville, which
17 is here in Lexington County. Your Honor, she was actually
18 on the phone with her daughter. She and her daughter were
19 talking.

20 And then there was a commotion in the business and
21 the phone went dead and the daughter realized that
22 something bad was happening, her mom was getting robbed.
23 The daughter called her uncle who contacted
24 Batesburg/Leesville Police Department. They got there
25 very, very quickly on Church Street there. As you can

1 imagine with a little town like that every officer came.
2 They set up perimeters. The clerk indicated to law
3 enforcement that two men had come in together, two black
4 men had come in together. One was armed with a handgun and
5 then threatened to -- threatened her and told her to open
6 the cash register. Money was taken, it wasn't even 3
7 hundred dollars.

8 Law enforcement set up the perimeter. They knew
9 which direction the men were traveling. They checked wood
10 lines, they had K-9's come out. During the course of that,
11 they found Mr. Godbold was hiding. They told him to come
12 out. He was -- he matched the clothing description that
13 they -- that the clerk had given to law enforcement. He
14 was not cooperative. They ended up tasing him. Your
15 Honor, they were able to find a car that was linked to
16 Mr. Godbold and his brother.

17 What happened was this -- so they had Mr. Godbold
18 in custody. They really didn't get anything or any
19 information from him, but as I said, they did find a car.
20 It had an Alabama tag. It had some other items in it.

21 Word spreads pretty quickly in a town like
22 Batesburg/Leesville. Another business, Bobby Dozier's
23 business, it's a car repair place, I believe. He ended up
24 calling the chief, Bobby Dozier did; and said Hey, a man
25 just came in here. He was breathing hard. He was sweaty.

1 He had cuts on his arms. He wanted to use the phone to
2 call for a ride. He said he was from Georgia. And by that
3 time law enforcement had found out more about the car and
4 items in this car and found that the car was from Georgia.

5 It all kind of went together. After this person
6 had used the phone at the Dozier business, he walked away.
7 Law enforcement came and they were able to find the second
8 person that had been involved in this armed robbery. And
9 it's Mr. Godbold's, I believe it must be a half brother or
10 stepbrother, they call each other brother. They had both
11 come from Georgia over here to commit this armed robbery.
12 Again, actually that defendant is going be in front of you
13 very, very soon to plead guilty, I think on Thursday.

14 Your Honor, Batesburg/Leesville did a good bit to
15 document where these men had been. They were able to
16 backtrack to a Bojangles. There was Bojangles trash found
17 in the car and they were able to backtrack earlier that
18 morning where the guys had gotten maybe some breakfast or
19 things of that nature. So it was a very well together --
20 put together case.

21 The brother was cooperative as far as admitting
22 what's happened. We're before you now, Mr. Godbold is
23 pleading guilty to the armed robbery. Any other criminal
24 conspiracies or companion charges are being not prosed.
25 The agreement is a range of 10 -- I mean a cap of 20

1 because there's a mandatory minimum of 10. That is just a
2 recommendation. I do have his prior record and victim
3 impact.

4 THE COURT: All right. Mr. Godbold, is that what
5 happened at the Quick Stop convenience store?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: You robbed the Quick Shop convenience
8 store on August 5th?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: To the charge of armed robbery, you
11 plead guilty or not guilty?

12 THE DEFENDANT: Guilty.

13 THE COURT: Are you guilty?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Has anyone promised you anything,
16 threatened you, coerced you, or mistreated you to force you
17 to plead guilty?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Are you pleading guilty of your own
20 free will and accord?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Is it your decision to plead guilty?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Are you pleading guilty because you are
25 guilty?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: You understand that by pleading guilty,
3 you're giving up your right to remain silent?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: You understand that by pleading guilty,
6 you're giving up your right to have a jury trial?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: You understand that at a jury trial you
9 could confront and cross-examine the State's witnesses
10 against you and present witnesses on your own -- in your
11 own defense?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Or testify in your own defense, if you
14 chose to do that, you understand?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: But no one could compel you to testify
17 against yourself. You understand that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Also the State will be required to
20 prove that you're guilty of this offense beyond a
21 reasonable doubt at trial. You understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: By pleading guilty, you're giving up
24 your right to have all of that happen. Do you understand
25 that?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Are you satisfied with your attorney?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Has she done everything you've asked
5 her to do?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Have you had enough time to talk to
8 her?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Have you understood your talks with
11 her?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Do you need anymore time to talk to
14 her?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Do you have any complaints about her
17 whatsoever?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: You understand this charge carries a
20 penalty of up to 30 years in prison?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Knowing that I could put you in the
23 Department of Corrections for the full 30 years, do you
24 still want the plead guilty?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: You know the State is recommending that
2 I give you no more than 20 years; do you understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: You understand that that's just a
5 recommendation and I don't have to follow it. I could put
6 you in prison for the full 30 years?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Knowing that, do you still want to
9 plead guilty?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Have you understood all of my
12 questions?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Have you been honest in your answers to
15 me?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: I find there's a substantial factual
18 basis for Mr. Godbold's plea and that he's made the plea
19 freely and voluntarily, knowingly and intelligently, with
20 the advice of competent counsel with whom he says he is
21 satisfied and I will accept his plea.

22 Ms. Martin, give me his record and anything else
23 you want me to hear.

24 MS. MARTIN: All right. Your Honor, from New York
25 in 1991, we have a felony robbery, causing serious injury;

1 we have from 1993 in New York, intent to obtain
2 transportation without paying and criminal trespass; from
3 1995 in New York, we have a burglary; from 2004 -- never
4 mind I'll not tell you that one because I don't have if
5 it's a conviction or not.

6 Then in Georgia, we have a 2007 armed robbery and a
7 possession of a firearm during the commission of a violent
8 crime where it looks like he got a 5 year consecutive
9 sentence. And I think he came here 2013 and it looks like
10 he was put under supervision for the Georgia armed robbery
11 at that time.

12 Your Honor, he's been in custody since August 6 of
13 2016.

14 Your Honor, as far as victim impact, the business
15 did respond to our victim impact statement. They wanted
16 their restitution. I thought it was recovered, but be that
17 as it may, I will explain to Your Honor with a significant
18 sentence such as this, they're not going to get that. But
19 I thought it was really nice and I had not told Ms. Gomez
20 that Mr. Patel, the owner of the Quick Shop said that all
21 he was concerned about, other than his \$500, that he was
22 very concerned about my employee. She's had a lot of
23 medical bills because of this and I'd like them to get
24 reimbursed. And I think that might be for some counseling
25 that she received, she had to receive. She indicated to us

1 today that it really did impact her. I mean she just
2 couldn't put into words how much it dramatically impacted
3 her life; that she wasn't able to keep working like that,
4 being by herself in the stores, that she has anxiety and it
5 just really has messed her up. And she's been with us all
6 morning today and has observed court and, Your Honor, just
7 such a tragedy and that's where we are.

8 Mr. Godbold was the one who actually presented the
9 handgun.

10 THE COURT: Okay. Ms. Mauldin.

11 MS. MAULDIN: Thank you, Your Honor. He's 41 years
12 old now. He'll be 42 next month. He's from New York. He
13 graduated high school there and attended community college.
14 He's divorced and has a child that he's tried to support as
15 much as he can. Your Honor, in the past, he's done mainly
16 construction work and carpentry, with specific field in the
17 larger build construction.

18 But, Your Honor, when this happened, he and his
19 family had moved to the South in 2006 and when this
20 happened, he'd been working for the chicken plant in
21 Batesburg/Leesville for about 11 months. He was living in
22 Augusta and he and his brother were driving that day to do
23 that because that was the work they could find. His
24 brother was in a car accident in Mr. Godbold's car so they
25 didn't have reliable transportation to get to the job and

1 at the same time the two of them found out that his
2 brother's -- the mother of his brother's child had become
3 homeless and they were worried about her. They were trying
4 to get money together to take care of that. They were able
5 to come here and they robbed this store because it was one
6 they knew, since they were working here and knew how things
7 ran in the store.

8 Your Honor, since I've had this case, Mr. Godbold
9 from the first conversation I had with him admitted exactly
10 what he did. We've talked about his bond's not -- his bond
11 was denied initially. We talked about a motion to set
12 bond. He said no, don't even worry about it, I just want
13 to go to court.

14 We talked about having family here today. He said
15 I don't want to burden them with having them go through
16 this too. He's somebody who accepts what he did. He's
17 certainly not proud of it, but he understands that he made
18 a horrible mistake and he just throws himself upon the
19 mercy of the Court. He's very sorry for what he did. I
20 know this must have been terribly frightening for
21 Ms. Gomez.

22 I will say that at least as far as armed robberies
23 go, this is not one that has some of the characteristics
24 that we see in these more serious robberies. It wasn't in
25 someone's home. It was relatively brief and no one was

1 hurt. So we'd ask the Court to consider those, that we
2 don't have some of the worst things that we see in maybe
3 more serious robberies.

4 We'd ask the Court to follow the cap that the
5 solicitor's imposed, however, she's not asking for a
6 specific amount of time. We'd ask for a 12 year sentence
7 that's a substantial sentence for him and since it's a no
8 parole offense, he's going to do 85 percent. If Your Honor
9 gave him the 12 year sentence he would be 50 by the time he
10 came out of the Department of Corrections, so we'd ask Your
11 Honor to consider that. And, of course, he'd be under
12 community supervision in the two years while he is out.

13 Your Honor, there's not a whole lot I can say.
14 It's a pretty straightforward situation. He's owned up to
15 this. He's never tried to minimize his role. He's never
16 tried to blame his brother. He just -- he 's accepting
17 what he did.

18 He's written an apology letter. He's asked me
19 provide that to the solicitor so she can give it to
20 Ms. Gomez.

21 (Handing the letter to the solicitor.)

22 THE COURT: Mr. Godbold, what do you want to tell
23 me?

24 THE DEFENDANT: There's not much of an excuse I
25 have for you, ma'am, except just to own up to my part of

1 the crime. That's really -- anything else would be an
2 excuse. I feel like anything else would be an excuse
3 because I know better than that.

4 THE COURT: Okay. While I agree Ms. Mauldin that
5 nobody was physically hurt, certainly Ms. Gomez was
6 psychologically hurt. This is the kind of thing that can
7 change a person for the rest of their lives, impact them
8 for the rest of their lives. She was just trying to do her
9 job, talking to her daughter on the phone. And then ends
10 up in this situation.

11 Mr. Godbold, the sentence is that you be committed
12 to the State Department of Corrections for 20 years.

13 MS. MARTIN: Thank you, Your Honor.

14 MS. MAULDIN: Thank you, Your Honor.

15 * * * * * END OF TRANSCRIPT * * * * *

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1	State of South Carolina)	Certificate of Reporter
2	County of Aiken)	
3			
4			
5			
6	I, THE UNDERSIGNED, Brenda J. Sigwald, Official		
7	Court Reporter for the Eleventh Judicial Circuit of the		
8	State of South Carolina, do hereby certify that I reported		
9	the proceedings in the captioned case in the Court of		
10	General Sessions in and for the State of South Carolina on		
11	10th day of January, 2017.		
12	I FURTHER CERTIFY that the foregoing pages		
13	constitute a true, accurate and complete transcript of said		
14	hearing.		
15	I FURTHER CERTIFY that I am neither kin, counsel,		
16	nor of interest to any party hereto.		
17	IN WITNESS WHEREOF, I have hereunto set my hand and		
18	seal at Aiken County, this 29th day of July, 2017.		
19			
20			
21			
22	<i>Brenda J. Sigwald</i>		
23	Brenda J. Sigwald,		
24	Court Reporter and Notary Public		
25	For the State of South Carolina		
	My commission expires		
	January 4, 2020		

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FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of _____)

2017 CP 3201809

Stanley A. Goodbold, 571009)

Full name and prison number (if any) of Applicant)

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

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

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

1. Place of detention Municipality of Batesburg
LEESVILLE
2. Name and location of Court which imposed sentence Lexington County
Judicial Center
3. Name(s) of co-defendant(s) (if any) ALONZO G. MEYERS
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2016 GS 3203050
 - (b) _____

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[Signature]

Lex. Co. C.C.P., G.S. & F.C.

JP

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CLERK OF COURT

LEXINGTON COUNTY

- (c) NO
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) January 10, 2017 20 yr
 - (b) NO
 - (c) NO

- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty _____
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
NO

- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. NO
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. NO
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. NO
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. NO
 - ii. _____
 - iii. _____

- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) My Attorney NEVER FILED A APPEAL
 - (b) _____

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

- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
- (b) _____
- (c) _____

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

- (a) COUNSEL NEVER READ OR CONTESTED VICTIMS
- (b) STATEMENT, COUNSEL DID NOT INVESTIGATE
- (c) DEFENDANT'S CASE, BEFORE NEGOTIATING HIS PLEA.

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

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

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

- (a) the specific nature thereof:
 - i. NO
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. NO
 - ii. _____
 - iii. _____
 - iv. _____

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(c) the disposition thereof:

- i. None
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. None
- ii. _____
- iii. _____
- iv. _____

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

- i. None
- 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?

None

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

(a) which grounds have been presented:

- i. None
- ii. _____
- iii. _____

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

- i. None
- ii. _____
- iii. _____

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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) None
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? YES
- (b) your trial, if any? NO
- (c) your sentencing? NO
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
NO

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

- (a) the name and address of each attorney who represented you:
 - i. PUBLIC DEFENDER, SARAH MAULDIN
SC BAR # 73651
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. ARRAIGNMENT AND PLEA
 - ii. _____
 - iii. _____

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2017 CP 3201809

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

NEW trial

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

NO

SP

STATE OF SOUTH CAROLINA)

County of Lexington)

VERIFICATION

I, Stanley A. Goodrich, 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.

[Signature]

SWORN to and subscribed before me this 5 day of May, 2017.

[Signature] (L.S.)
Notary Public

My Commission Expires: 2-1/2017

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CLERK OF COURT
SOUTH CAROLINA

2017 MAY 22 AM 9:28

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[Signature]
Lex. Co. C.C.C.P., G.S. & F.C.

2017 CP 3201809

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

I, Stanley A. Crowder, 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:

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

Stanley A. Crowder
Applicant

SWORN or affirmed to and subscribed before me this

3 day of May, 2017.

[Signature]

Notary Public

My Commission Expires: 2-1-2017

SP

FILED

2017 MAY 22 AM 9:24

CLERK OF DISTRICT COURT
LEXINGTON, KY

A TRUE COPY

[Signature]

Lex. Co. C.C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)
 Stanley Ali Godbold, #371009,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 IN THE ELEVENTH JUDICIAL CIRCUIT

Case No. 2017-CP-32-01809

RETURN

Respondent, in making its return to the application for post-conviction relief (PCR) filed May 22, 2017, would respectfully show the Court:

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Lexington County Clerk of Court.

The Lexington County grand jury indicted applicant during its November 2016 term for armed robbery. (Attachment 2; Indictment No. 2016-GS-32-03050). The indictment alleged applicant and a co-defendant robbed a convenience store clerk on August 5, 2016 in Batesville-Leesburg. (Attachment 2). Applicant appeared before the Honorable Jocelyn Newman to plead guilty on January 10, 2017.¹ Sarah Hahn Mauldin, Esquire, represented applicant. Judge Newman sentenced applicant to a term of twenty years' imprisonment for armed robbery. (Attachment 2, Attachment 3).

¹ A transcript of the plea hearing has been ordered, but not yet provided by the court reporter. Respondent intends to incorporate the transcript once it becomes available, and before this matter proceeds to an evidentiary hearing. See S.C. Code Ann. § 17-27-70(a) ("If the application is not accompanied by the record of the proceedings challenged therein, the respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application.").

Applicant did not appeal his plea or sentence.

Attachments

Attached and incorporated by reference are the following documents:

1. PCR Application
2. Lexington County Clerk of Court Records
3. SCDC Records

Respondent reserves the right to amend the return upon receipt of the transcript or other relevant records.

PCR Action

Arthur K. Aiken, Esquire, has been appointed to represent applicant in the present action. Applicant filed a *pro se* PCR application on May 22, 2017 with the Lexington County Clerk of Court alleging the following claims of error:

Ineffective assistance of plea counsel:

1. Counsel never read or contested the victim's statement
2. Counsel did not investigate defendant's case before negotiating his plea

Applicant includes no attachments or memoranda in support of his claims. Respondent denies applicant is entitled to relief on either of these claims. Any claims not specifically enumerated in the application or amendments will be opposed by respondent at the evidentiary hearing.

Standard for Relief

To establish a claim of ineffective assistance of plea counsel, a PCR applicant must prove (1) counsel's performance was deficient, and (2) the deficiency prejudiced the applicant's case. *Stalk v. State*, 383 S.C. 559, 560-61, 681 S.E.2d 592, 593 (2009) (citing *Hill v. Lockhart*, 474 U.S. 52, 58 (1985) (holding the two-part test in *Strickland v. Washington*, 466 U.S. 668 (1984) applies to guilty plea challenges based on ineffective assistance of counsel)). An applicant who

pled guilty on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing counsel's representation fell below an objective standard of reasonableness and there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty but would have insisted on going to trial. *Wolfe v. State*, 326 S.C. 158, 164, 485 S.E.2d 367, 370 (1997) (citing *Hill*, 474 U.S. at 56-57).

At all times during the PCR action, the applicant maintains the burden of establishing he is entitled to relief. Rule 71.1(e), SCRCP; *Suber v. State*, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007). Moreover, there is "a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case." *Morris v. State*, 371 S.C. 278, 282, 639 S.E.2d 53, 55 (2006); *see also Moorehead v. State*, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) ("Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result.").

Claims of Ineffective Assistance of Counsel are Without Merit

Respondent submits applicant's allegations of ineffective assistance of plea counsel are without merit, and applicant cannot satisfy either prong of *Strickland*. First, applicant did not provide any details or facts to support his claims, making them too vague to offer anything more than a general denial. *See* S.C. Code Ann. § 17-27-50 (providing an applicant shall "specifically set forth the grounds upon which the application is based" including "[f]acts within the personal knowledge of the applicant"). Applicant's bare assertions that counsel did not read or contest the victim's statement or investigate his case are insufficient to warrant relief as applicant fails to provide any proof of the allegations. *See Strickland*, 466 U.S. at 689 (holding courts must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable

professional assistance); *see also Moorehead*, 329 S.C. at 334, 496 S.E.2d at 417 (finding no prejudice where claims of failure to investigate are supported only by mere speculation as to the result). Second, by pleading guilty, applicant specifically waived his right to contest the victim's statement and any other evidence the State may have presented against him at trial. *See McMann v. Richardson*, 397 U.S. 759, 766 (1970) (holding the plea is also a waiver of trial and a waiver of the right to contest the admissibility of any evidence the State might have offered against the defendant).

Respondent submits applicant cannot satisfy either prong of *Strickland*. However, the claims of ineffective assistance of plea counsel likely raise questions of fact the record cannot conclusively refute. *Sharper v. State*, 279 S.C. 264, 266, 305 S.E.2d 247, 249 (1983); *see also* S.C. Code Ann. § 17-27-80 (providing for an evidentiary hearing and the procedure that shall be followed to develop the record). Therefore, respondent requests an evidentiary hearing to fully resolve the issues.

Conclusion

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

WHEREFORE, having made its return, respondent requests the Court hold an evidentiary hearing on the two claims of ineffective assistance of counsel.

Respectfully submitted,

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Attorney General

DONALD J. ZELENKA
Deputy Attorney General

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BY:



SHERRIE BUTTERBAUGH

ATTORNEYS FOR RESPONDENT

July 21, 2017.

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

<p>Stanley A. Godbold #371009, Applicant vs. State of South Carolina, Respondent.</p>	<p>Case No.: 2017-CP-32-01809 AMENDMENT TO PCR APPLICATION</p>
---	--

The Applicant, Stanley A. Godbold (Godbold), amends his PCR Application filed in the above captioned case as follows:

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

Godbold amends his response to item 10 to add the following:

a. Ineffective assistance of trial counsel

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

Godbold amends his response to Item 11 to add the following:

a.

i. Applicant's guilty plea was not made with or based on advice of competent counsel.

ii. Applicant's guilty plea was not intelligently made.

iii. Trial counsel did not discuss the evidence with Applicant.

iv. Trial counsel did not prepare Applicant's case for trial, and Applicant was left with no choice but to plead guilty.

v. Trial counsel did not advise Applicant of the elements of the offense charged and did not discuss potential defenses with Applicant.

vi. Trial counsel never reviewed the pretrial discovery with Applicant.

vii. Trial counsel never discussed the advantages and disadvantages of a trial versus the advantages and disadvantages of a plea with Applicant so that Applicant could make an informed choice of whether to enter a plea or try his case.

viii. Trial counsel did not investigate Applicant's case.

ix. The individual alleged victim in Applicant's case spoke only Spanish, and the alleged victim's statement was in Spanish. Trial counsel did not review any English translation of the alleged individual victim's Spanish statement with Applicant prior to his plea. Since his plea, Applicant has received and reviewed an English translation of the alleged individual victim's statement. If trial counsel had reviewed this English translation of the alleged individual victim's statement with Applicant prior to Applicant's plea, Applicant would have rejected the State's plea offer and would have insisted on a trial.

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

Applicant amends his response to Item 19 to state the following:

Order vacating conviction and sentence.

Furthermore, Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the hearing that have not been specifically addressed in the Application or this Amended Application.

Respectfully Submitted,

AIKEN & HIGHTOWER, P.A.

BY: 

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ATTORNEYS FOR APPLICANT

Columbia, South Carolina
July 23, 2018

STATE OF SOUTH CAROLINA)	
	)	COURT OF COMMON PLEAS
County of Lexington	)	2017-CP-32-1809
)	
STANLEY GODBOLD,)	
)	
APPLICANT,)	
)	
vs.	)	TRANSCRIPT OF RECORD
)	
STATE OF SOUTH CAROLINA,)	
)	
RESPONDENT,)	

July 31, 2018
Lexington, South Carolina

BEFORE:

THE HONORABLE PERRY H. GRAVELY, JUDGE.

APPEARANCES:

ART AIKEN, ESQ.
Attorney for the Applicant

KELLY OPPENHEIMER, ASSISTANT ATTORNEY GENERAL
Attorney for the Respondent

KAREN AMBROZIAK
Official Court Reporter

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(No exhibits were introduced)

1 THE COURT: All right. Everybody ready?

2 MS. OPPENHEIMER: Yes, Your Honor.

3 THE COURT: Okay.

4 MS. OPPENHEIMER: This is Stanley Godbold v. the
5 State of South Carolina, docket number 2017-CP-320-1809.
6 During its November 2016 term, the Lexington County Grand
7 Jury indicted Applicant for armed robbery.

8 Senior Assistant Public Defender, Sarah H. Mauldin,
9 of the 11th Circuit Public Defender's office represented
10 him on this charge. Assistant Solicitor Angela Garrick
11 Martin of the 11th Circuit Solicitor's Office prosecuted
12 the case.

13 On January 10th, 2017, Applicant appeared before the
14 Honorable Jocelyn Newman and pled guilty as indicted.
15 Pursuant to a recommendation by the State for a cap of 20
16 years, Judge Newman sentenced Applicant for a term of
17 imprisonment of 20 years. Applicant did not appeal his
18 plea or sentence.

19 On May 22nd, 2017, the Applicant filed an application
20 for Post Conviction Relief alleging ineffective assistance
21 of counsel for failing to read or contest the victim's
22 statement and for failing to investigate. On July 21st,
23 2017, Respondent made its return requesting an evidentiary
24 hearing be held.

25 On July 23rd, 2018, Applicant, through his counsel,

1 filed an amendment to his original application. In this
2 amendment, Applicant raises allegations of involuntary
3 guilty plea and various allegations of ineffective
4 assistance of counsel. Applicant is present today and is
5 presented by Art Aiken.

6 THE COURT: All right. Anything you want to tell me
7 preliminarily?

8 MR. AIKEN: Just briefly, Your Honor. The main issue
9 in this case is that leading up to Mr. Godbold's plea, he
10 was shown a statement from the alleged victim of this
11 armed robbery.

12 That statement -- she only spoke Spanish. That
13 statement was in Spanish, so he didn't have an opportunity
14 to thoroughly review that statement because he doesn't
15 speak Spanish, and he doesn't read Spanish.

16 Since he's been in the Department of Corrections, he
17 subsequently received an English translation of that
18 statement, and he will explain to the court how that --
19 what is in that statement in English would have impacted
20 his decision to plead guilty.

21 THE COURT: All right.

22 MR. AIKEN: And the Applicant calls Stanley Godbold
23 to the stand.

24 THE COURT: All right. If you'll come forward,
25 Mr. Godbold.

1 THE CLERK: Place your left hand on the Bible, raise
2 your right hand to the best of your ability.

3 STANLEY GODBOLD, after being duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION:

6 BY MR. AIKEN:

7 Q Now, Mr. Godbold, you understand that we're here for
8 Post Conviction Relief on your conviction and sentence
9 following a guilty plea as discussed by Ms. Oppenheimer,
10 correct?

11 A Yes, ma'am -- yes, sir, excuse me.

12 Q Now, leading up to the guilty plea, did you discuss
13 the evidence in that case with your lawyer, Sarah Mauldin?

14 A No.

15 Q You did not discuss the evidence with her?

16 A No.

17 Q Okay. Now, did you request that she do any
18 investigation in the case?

19 A No.

20 Q Did Ms. Mauldin advise you of the elements of the
21 offense you were charged with armed robbery?

22 A No.

23 Q Did Ms. Mauldin review the discovery in the case
24 prior -- with you prior to your plea?

25 A Specifically, she just reviewed my rap sheet.

1 Q Okay. So did you discuss at all with her the
2 statement of the alleged victim that was in the Spanish
3 language?

4 A No.

5 Q Do you read Spanish?

6 A No, sir.

7 Q Okay. Have you subsequently received a translation
8 of that statement?

9 A Yes, sir.

10 Q Are there things in that translation that cause you
11 some concern about your guilty plea?

12 A Yes, sir.

13 Q Okay. What about the statement causes you some
14 concern about your guilty plea?

15 A Just the fact that she gave -- she gave two
16 descriptions of who actually had the gun in her face. She
17 gave two descriptions of --

18 MS. OPPENHEIMER: Your Honor, at this time, I'm going
19 to object to hearsay.

20 THE COURT: All right. Since this is kind of a
21 nonjury matter, I'm going to -- I'll accept and it give
22 the appropriate weight and value.

23 MS. OPPENHEIMER: Yes, sir, Your Honor.

24 THE WITNESS: She gave two descriptions on the actual
25 individuals who she claimed robbed her.

1 BY MR. AIKEN:

2 Q Why was that significant as it relates to your guilty
3 plea?

4 A Because it would have shed light on who was the
5 primary, who was the individual who actually robbed the
6 place.

7 Q Do you think the victim's statement in an English
8 translation would have cast doubt on whether you committed
9 the crime or whether somebody else did?

10 A Absolutely.

11 Q Now, let me ask you this, had you had the information
12 about the English translation of that victim's statement
13 prior to your guilty plea, would you have pled guilty?

14 A No, sir.

15 Q All right. Prior your guilty plea, did you ever
16 discuss the advantages and disadvantages of a plea and the
17 advantages and disadvantages of a trial with Ms. Mauldin?

18 A When she initially first came and saw me, she spoke
19 about trial, but no.

20 MR. AIKEN: Thank you, Mr. Godbold.

21 MS. OPPENHEIMER: May it please the Court, Your
22 Honor?

23 THE COURT: Yes.

24 CROSS-EXAMINATION:

25

1 BY MS. OPPENHEIMER:

2 Q Now, you said you did not give Ms. Mauldin any leads
3 or witnesses to investigate, correct?

4 A Correct.

5 Q Do you recall your plea proceedings?

6 A In regards to what?

7 Q Well, do you recall telling Judge Newman that you
8 were satisfied with the services of Ms. Mauldin?

9 A Yes, ma'am.

10 Q And you told Judge Newman that Ms. Mauldin had done
11 everything that you asked?

12 A Yes, ma'am.

13 Q And that you had no complaints with her, correct?

14 A Yes, ma'am.

15 Q And you also told Judge Newman that you had been
16 honest in all of your answers, right?

17 A Yes, ma'am.

18 Q And do you recall the factual overview that the State
19 gave at your plea?

20 A No, ma'am.

21 Q Would looking at a copy of the transcription refresh
22 your memory?

23 A Sure.

24 MS. OPPENHEIMER: Your Honor, may I approach the
25 witness?

1 THE COURT: Yes, you may.

2 BY MS. OPPENHEIMER:

3 Q All right. If you'll review Pages 4 through 6. I
4 believe it's 4 through 6.

5 A Okay.

6 Q Have you had an opportunity to review that transcript
7 that I just handed you?

8 A Yes, ma'am.

9 Q All right. Does that refresh your recollection as to
10 the factual overview the State gave?

11 A Yes, ma'am.

12 Q And you agreed with those facts, correct?

13 A Yes, ma'am.

14 Q And you told Judge Newman that you had, in fact,
15 entered the Quick Mart with a gun on August 5th, 2016,
16 correct?

17 A Yes, ma'am.

18 Q And you told Judge Newman that you were, in fact,
19 guilty, correct?

20 A Yes, ma'am.

21 Q And was it your decision to plead guilty?

22 A Initially, yes.

23 Q Well, do you recall telling Judge Newman that it was
24 your decision?

25 A No.

1 Q You don't recall that. If I can ask you to turn to
2 Page 7 of that transcript. Does that refresh your
3 recollection?

4 A Yes, ma'am.

5 Q And you told Judge Newman that it was your decision
6 to plead guilty?

7 A Yes, ma'am.

8 Q And you also told her that no one had threatened you,
9 promised you anything, coerced you or mistreated you in
10 order to get you to plead guilty, correct?

11 A No.

12 Q You did not tell her that?

13 A Yes, ma'am.

14 Q So if you testified at the plea that no one had
15 threaten you --

16 A Uh-huh.

17 Q No one had promised you anything --

18 A Uh-huh.

19 Q -- no one had coerced you, that would be an
20 inconsistency in your statement today?

21 A No, because she left the fact -- she didn't ask the
22 question if I had a clear overview of the facts pertaining
23 to my case.

24 Q But you did agree to those facts, correct?

25 A As it stood at that point, yes.

1 Q And you sat there and listened to the solicitor
2 giving their version of the facts and you said that yes, I
3 did that, correct?

4 A Yes, I did, yes.

5 Q And you also told Judge Newman that you were pleading
6 guilty of your own free will, correct?

7 A Yes, ma'am.

8 Q Now, did you want a trial?

9 A Initially, no.

10 Q All right. Well, do you recall Judge Newman going
11 over each of your rights at trial with you?

12 A Yes, ma'am.

13 Q All right. And you told her that you understood each
14 of those rights, correct?

15 A Yes, ma'am.

16 Q All right. And that you were waiving those rights by
17 pleading guilty, correct?

18 A Yes, ma'am.

19 MS. OPPENHEIMER: Your Honor, I have no further
20 questions.

21 THE COURT: All right. Any redirect?

22 MR. AIKEN: No redirect, Your Honor.

23 THE COURT: All right. Thank you, Mr. Godbold. You
24 can step down.

25 Any additional witness, Ms. Aiken?

1 MR. AIKEN: No, Your Honor. The Applicant rests.

2 THE COURT: All right.

3 MS. OPPENHEIMER: The State calls Sarah Mauldin.

4 SARAH MAULDIN, after being duly sworn,
5 testified as follows:

6 THE COURT: All right. You may proceed.

7 DIRECT EXAMINATION:

8 BY MS. OPPENHEIMER:

9 Q Good morning, Ms. Mauldin. How long have you been
10 practicing law?

11 A Since 2006.

12 Q Where do you practice?

13 A At the Lexington County Public Defender's Office.

14 Q How long have you been there?

15 A Twelve years.

16 Q So you were appointed in this case?

17 A I was.

18 Q Do you recall about when you were appointed?

19 A I can tell you that the file was assigned to me on
20 September 1st of 2016.

21 Q And how many times did you meet with the Applicant
22 prior to his plea?

23 A Three times.

24 Q And what did y'all discuss in those meetings?

25 A On the first meeting, I met with him on September 9th

1 of 2016. At that time, I reviewed the elements of the
2 crimes that he was charged with, the penalties and other
3 consequences that accompanied those charges, and then his
4 trial rights.

5 At that time, I had forgotten to tell him about the
6 elements and the penalties on the pointing and presenting
7 charge that he had. When I talked to him, he told me that
8 he didn't want any kind of motion to set bond. I asked
9 him if there were any witnesses to the case, and he told
10 me that there were none, other than his brother, who was
11 also charged.

12 On November 29th, I met with him again. This time, I
13 took the pointing and presenting information with me, and
14 presented that to them. By then, I had gotten a copy of
15 the discovery from the solicitor. There was a PDF file
16 that included police reports, statements, his rap sheet,
17 that kind of information.

18 I went through all of that with him. I provided a
19 copy to him. At that point, he told me he wanted to enter
20 a guilty plea. We reviewed the offer that the Solicitor
21 had given us at that point; that was to plead to resisting
22 arrest and armed robbery.

23 He told me that he wanted a sentence of 15 years or
24 less. I told him that I would talk to the Solicitor about
25 potentially reducing the charge or offering a sentencing

1 range.

2 After that, I talked to the Solicitor at -- well, on
3 December 6th, I talked to her and asked her to consider a
4 range or either something like a flat 12 or 10-year
5 sentence. She told me that she would consider that and
6 let me now.

7 He had an appearance on December 9th. I talked to
8 the Solicitor again. She told me that her offer was a cap
9 of 20 years, and we set a potential plea date of
10 January 10th.

11 I met with him again on January 6th of that year. He
12 told me that he accepted the offer. He was charged with
13 resisting arrest, but that -- there was never -- the
14 police had never got him in their control, and he had not
15 done anything to submit to their authority. There's a
16 case that says that doesn't apply. I showed her that and
17 she agreed to dismiss the resisting charge, and then he
18 entered the guilty plea on January 10th.

19 I can tell you that when our jail screener met with
20 him to get the basic information about the case before I
21 even had received the file, he had told her that he had
22 done this and that he was the man with the gun.

23 When I talked to him at the jail, he told me the same
24 thing, and that was his version of events throughout the
25 representation. He told me that he wanted to enter a

1 guilty plea to this and wanted me to work out the best
2 deal that I could get.

3 Q All right. Now, kind of going into the discovery a
4 little bit, there was a statement by the victim and that
5 was in Spanish?

6 A That's right.

7 Q What other evidence was there against Mr. Godbold?

8 A Well, this all happened in a fairly small area of
9 Batesburg. The convenience store that was robbed is right
10 in town. When -- that is at a shift change in the police
11 department, and so there were a lot of police that were
12 apparently out at the time. So when the call came in
13 about a robbery, they started looking around.

14 They found Mr. Godbold pretty quickly after that. It
15 was within the same morning. He matched the description
16 that the police said that the cashier had given, and
17 again, although she may have given that to them in
18 Spanish, the report said that they had found him in the
19 clothes that they said that she had described.

20 They had to chase him and his brother for a little
21 while. They said that they had gone through the woods.
22 Both of them were taken into custody pretty quickly. And
23 the police interviewed his brother, he confessed to the
24 whole thing. He said Mr. Godbold was man with the gun.
25 You know, he told them all the details of the robbery and

1 confessed. Mr. Godbold didn't tell the police anything
2 about what happened when they talked to him.

3 Q Okay. So just to be clear, the brother gave a
4 statement implicating not only himself, but also
5 Mr. Godbold?

6 A That's right. There were other pieces of evidence,
7 too. They had kind of crashed a car down an embankment.
8 The car was found there. They found the gun. So there
9 were other things that were found, too.

10 Q And Mr. Godbold never indicated to you that he wasn't
11 guilty of these charges?

12 A That's right.

13 Q And he did not give you any potential leads or
14 witnesses to investigate?

15 A Yes.

16 Q Yes, he did or no, he did not?

17 A That's correct. He did not give me those things.

18 Q And you also testified that you discussed the
19 elements of each charge, correct?

20 A That's correct.

21 Q All right. And you discussed the potential sentences
22 with him?

23 A Yes.

24 Q And the cap of 20 years?

25 A Yes.

1 Q Okay. At any point, did he indicate to you that he
2 didn't understand something?

3 A No. And he's correct, I didn't seek a translation of
4 the Spanish statement. Based on everything else we had,
5 you know, I didn't think that was necessary, but I didn't
6 do that.

7 Q So the statement itself didn't exactly concern you?

8 A Right.

9 Q Did you discuss the advantages and disadvantages of
10 going to trial versus a plea?

11 A I don't know how much we discussed that since he let
12 me know from the outset that he wanted to enter a plea and
13 I felt that there was substantial evidence against him.

14 The statement that his brother gave was an audio
15 recording. It sounded very credible to me, and that and
16 the other pieces of evidence that they found, it seemed
17 like a strong case for the State at trial.

18 So I don't know that I spent any time with him really
19 weighing the benefits and disadvantages of going to trial
20 based on what he was telling me and the evidence that I
21 had seen.

22 Q But he never told you he wanted to go to trial?

23 A That's right.

24 MS. OPPENHEIMER: No further questions, Your Honor.

25 THE COURT: Cross-examination?

1 MR. AIKEN: Yes, Your Honor. May it please the
2 Court.

3 CROSS-EXAMINATION:

4 BY MR. AIKEN:

5 Q All right. So the alleged victim, the lady in the
6 store, was a Spanish speaker; is that right?

7 A Apparently so.

8 Q And she gave the statement that was in Spanish?

9 A Yes.

10 Q And did you show this statement in Spanish to
11 Mr. Godbold?

12 A I gave him a complete copy of the reports and
13 statements and that one was included, yes.

14 Q But it was in Spanish?

15 A That's right.

16 Q And do you know whether Mr. Godbold reads or speaks
17 Spanish?

18 A I have no knowledge that he does speak Spanish.

19 Q So you didn't ever have that statement translated?

20 A That's right.

21 Q So you never gave the translation to Mr. Godbold?

22 A Right.

23 Q Has it been transferred since that time?

24 A No.

25 Q So the statement you have in your file is still in

1 Spanish?

2 A Yes.

3 Q Did you discuss this statement with anybody, ask
4 somebody that spoke Spanish what it all meant?

5 A No, I didn't.

6 Q Not a formal translator, but just anybody that speaks
7 Spanish who could tell you kind of what the gist is?

8 A No, I didn't do that.

9 Q So you really have no earthly idea what that victim
10 said, right?

11 A Right.

12 Q You really have no idea?

13 A That's right.

14 MR. AIKEN: All right. May I have just one moment
15 please, Your Honor?

16 (Pause.)

17 BY MR. AIKEN:

18 Q So without the English translation of that statement,
19 you couldn't tell whether that victim's statement was
20 consistent with what Mr. Godbold's brother said?

21 A That's true.

22 Q Those could have been completely at odds, right?

23 A They could have been.

24 Q Which would, of course, in your mind either impact
25 the credibility of the victim's statement or the

1 credibility of Mr. Godbold's brother's statement, right?

2 A That's right.

3 Q So it would be nice to have that comparison, right?

4 A It could have been.

5 MR. AIKEN: All right. Thank you.

6 THE COURT: Any redirect?

7 MS. OPPENHEIMER: Very briefly, Your Honor.

8 THE COURT: I've got a question here. Let me ask you
9 this before you can respond.

10 Did you have an incident report or, I guess, a report
11 from the investigating officers; and if so, did it reflect
12 anything about the statement of the victim?

13 THE WITNESS: I did. Well -- and, Your Honor, this
14 is the police report. It indicates that dispatch relayed
15 that the victim, who is the clerk, at the incident
16 location advised two black males, one wearing a white tank
17 top and khaki shorts and the other black male wearing all
18 black clothing entered the incident location. And the
19 black male wearing the white tank top and the khaki shorts
20 approached the victim and pointed a black handgun at her
21 demanding the money from the register.

22 The victim advised dispatch both black males ran out
23 of the incident location. That was primary information I
24 had to go on as far as the victim's version of events.

25 THE COURT: All right. Y'all both can ask her any

1 questions to follow up if you need to on that.

2 MS. OPPENHEIMER: Just very briefly, Your Honor.

3 REDIRECT EXAMINATION:

4 BY MS. OPPENHEIMER:

5 Q The fact of the matter is, Mr. Godbold never denied
6 committing this crime, correct?

7 A That's correct.

8 Q And the statement his brother gave implicated not
9 only himself, but Mr. Godbold?

10 A Yes.

11 Q And dispatch was able to give out a description of
12 both assailants in English, correct?

13 A Correct.

14 Q And it was a very clear description, correct?

15 A Yes.

16 MS. OPPENHEIMER: All right. No further questions,
17 Your Honor.

18 THE COURT: Any additional questions, Mr. Aiken?

19 RECCROSS-EXAMINATION:

20 BY MR. AIKEN:

21 Q Other than that initial information, which I guess
22 came from 9-1-1, right?

23 A It says dispatch, I assume so.

24 Q Dispatch for Lexington County Sheriff's Department?

25 A I would assume so.

1 Q But that information probably came through a 9-1-1
2 call?

3 A I would assume so.

4 Q Is there any other information in your file about the
5 victim's statement that is in any way contrary to that
6 information from the police report?

7 A I don't see anything just glancing through the file.

8 MR. AIKEN: Thank you, Ms. Mauldin. That's all I
9 have.

10 THE COURT: All right. You may step down.

11 THE WITNESS: Thank you, Judge.

12 THE COURT: Anything else from the State?

13 MS. OPPENHEIMER: Nothing further from the State.

14 THE COURT: Any additional evidence from the
15 Applicant?

16 MR. AIKEN: No case in reply, Your Honor.

17 THE COURT: All right. I'll be glad to hear from
18 you.

19 MR. AIKEN: Just very briefly, Your Honor, as I
20 indicated, the most important fact in this case is the
21 English translation -- or the Spanish language statement,
22 which impacted on Mr. Godbold's decision to plead guilty.

23 And he indicated from the witness stand had he known
24 what was in that statement at the time he was considering
25 a guilty plea, he would not have pled guilty, which is the

1 prejudice standard for a guilty plea PCR.

2 THE COURT: All right. In listening to the evidence
3 presented here today and looking at the transcript from
4 the guilty plea, one and subject to the objection for it
5 being hearsay, I'm not sure that any translation of the
6 letter has been clearly established. And even if it has,
7 I don't think that the Applicant has shown any prejudice,
8 especially the overwhelming evidence of the brother's
9 statement and based on the testimony of the attorney
10 representing him at the time.

11 And he clearly states in his transcript at the time
12 of his plea on Page 7, You robbed the Quick Shop
13 convenience store on August the 5th?

14 Yes, ma'am. That's what the defendant said.

15 But I don't believe that the Applicant has met his
16 burden on this, and so I'm going to deny the PCR.

17 MS. OPPENHEIMER: Thank you, Your Honor.

18 THE COURT: I'll ask you to draft an order.

19 (Whereupon, the proceedings were concluded.)
20
21
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25

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON, 2018 SEP 19 MAIL ROOM FOR THE ELEVENTH JUDICIAL CIRCUIT

Stanley Ali Godbold, #371009,

LISA M. COMER
CLERK OF COURT
LEXINGTON SC

Case No. 2017-CP-32-01809

Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

This matter comes before the Court by way of an application for post-conviction relief filed May 22, 2017, by Stanley Ali Godbold (Applicant). The State (Respondent) made its Return on July 21, 2017, requesting an evidentiary hearing be held. Thereafter, on July 23, 2018, Applicant, through his counsel, filed an amendment to the application for post-conviction relief. An evidentiary hearing into the matter was convened on July 31, 2018, at the Lexington County Courthouse before the Honorable Perry H. Gravely. Applicant was present at the hearing and represented by Arthur K. Aiken, Esquire. Assistant Attorney General Kelly Oppenheimer of the South Carolina Attorney General's Office represented Respondent.

PROCEDURAL HISTORY

The records before this Court indicate Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. During its November 2016 term, the Lexington County Grand Jury indicted Applicant for armed robbery (2016-GS-32-03050). Assistant Public Defender Sarah Hahn Mauldin, of the Lexington County Public Defender's Office, represented him on this charge. On January 10, 2017, Applicant appeared before the Honorable Jocelyn Newman and pled guilty as indicted. Pursuant to a recommendation for a cap of twenty years, Judge Newman sentenced

[Handwritten signature]

Applicant to a term of imprisonment of twenty years. Applicant did not appeal his plea or sentence.

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

1. Ineffective Assistance of Counsel:
 - a. Counsel never read or contested victim[']s statement, counsel did not investigate [Applicant's] case before [sic] negotiating his plea.

In his amendment to the application for post-conviction relief, Applicant raises the following additional grounds of ineffective assistance of counsel:

1. Applicant's guilty plea was not made with or based on advice of competent counsel;
2. Applicant's guilty plea was not intelligently made;
3. Trial counsel did not discuss the evidence with Applicant;
4. Trial counsel did not prepare Applicant's case for trial, and Applicant was left with no choice but to plead guilty;
5. Trial counsel did not advise Applicant of the elements of the offense charged and did not discuss potential defenses with Applicant;
6. Trial counsel never reviewed the pretrial discovery with Applicant;
7. Trial counsel never discussed the advantages and disadvantages of a trial versus the advantages and disadvantages of a plea with Applicant so that Applicant could make an informed choice of whether to enter a plea or try his case;
8. Trial counsel did not investigate Applicant's case; and
9. The individual alleged victim in Applicant's case spoke only Spanish, and the alleged victim's statement was in Spanish. Trial counsel did not review any English translation of the alleged individual victim's Spanish statement with Applicant prior to his plea. Since his plea, Applicant has received and reviewed an English translation of the alleged individual victim's statement. If trial counsel had reviewed this English translation of the alleged individual victim's statement with Applicant prior to Applicant's plea, Applicant would have rejected the State's plea offer and would have insisted on a trial.

At the evidentiary hearing, Applicant proceeded forward on the allegations raised in his amendment to the application for post-conviction relief.

STATEMENT OF FACTS ADDUCED AT THE PLEA

On August 5, 2016, at approximately six o'clock in the morning, Amelia Gomez (Victim) was working as a cashier at Quick-Mart in Batesburg/Leesville. Tr. 4. While Victim was on the phone with her daughter, two black men entered the store, one was carrying a gun. Tr. 4-5. At that point, the phone went dead. Tr. 4. The man with the gun threatened Victim and told her to open the cash register. Tr. 4. She complied, and the man took the money in the register. Tr. 4.

Meanwhile, Victim's daughter called her uncle, who subsequently called the Batesburg/Leesville Police Department. Tr. 4. Law enforcement arrived quickly and set up a perimeter. Tr. 4-5. During their search of the wood line of the perimeter, law enforcement found Applicant hiding. Tr. 5. Applicant matched the clothing description Victim had given them. Tr. 5.

TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant testified on his own behalf. Respondent presented the testimony of Assistant Public Defender Sarah Hahn Mauldin (hereinafter "Counsel"). This Court also had before it a copy of Applicant's plea transcript, the records of the Lexington County Clerk of Court, and Applicant's records from the South Carolina Department of Corrections.

During the evidentiary hearing, Applicant testified on his own behalf. Applicant testified he did not discuss the evidence with Counsel, and Counsel did not advise him of the elements of the charge. He further testified he did not request Counsel perform any investigation on his behalf and did not provide her with any leads or witnesses to investigate. Applicant testified he and Counsel only reviewed his rap sheet. He elaborated they did not discuss proceeding to trial and did not discuss the advantages and disadvantages of doing so.

Applicant further testified he and Counsel did not discuss the victim's statement, which was only in Spanish. He testified he does not read Spanish, but he has since received a translated copy of the statement. He explained after receiving that translation, he has concerns with his guilty plea. He further explained in her statement, the victim gave two different descriptions of the gunman. Applicant testified these descriptions would have shed light on who was the individual who robbed the store and would have cast doubt that Applicant was the robber. He elaborated had he received a translated copy of this statement prior to pleading guilty, he would not have pled guilty.

He also testified he recalled telling the plea court he was satisfied with Counsel and further recalled telling the court Counsel had done everything he asked of her. Applicant testified he also informed the plea court he had no complaints of Counsel. He further testified at his plea, he agreed with the facts as recited by the State. He elaborated he informed the plea court he was, in fact, guilty and had entered the Quick-Mart with a gun on August 5, 2016. He further elaborated, however, the court did not ensure he had an understanding of the facts. Applicant further testified initially it was his decision to plead guilty, and he recalled informing the plea court he was pleading of his own free will. He testified, however, he did not tell the plea court no one had threatened him, promised him anything, coerced him, or mistreated him in order to induce his guilty plea. Applicant further testified he recalled the plea court reviewing each of his rights at trial, and he understood each of those rights. He testified he understood he was waiving those rights by pleading guilty.

Following Applicant's testimony, Applicant rested. Respondent then called Counsel. Counsel testified she has been practicing law since 2006 and has been employed with the Lexington County Public Defender's Office for twelve years. She testified she was appointed to

represent Applicant on September 1, 2016, and they met three times prior to the plea. She testified they had their first meeting on September 9, 2016. She explained during this initial meeting she and Applicant discussed the elements, penalties, consequences, and Applicant's constitutional rights at trial. She further explained Applicant did not give her any witnesses to investigate, other than his brother. She testified on November 29, 2016, they again met. She testified during that meeting she reviewed the discovery material with Applicant¹, and Applicant indicated he wanted to enter a guilty plea.

Counsel testified Applicant wanted to plead guilty from the outset, as there was substantial evidence against Applicant, and Applicant never indicated he wanted to go to trial. She testified she and Applicant reviewed the initial plea offer from the State, which was for a term of imprisonment of fifteen years or less in exchange for a plea to armed robbery and resisting arrest. Counsel also testified she discussed a plea offer with a range of ten to twelve years with the solicitor on December 6, 2016. She testified on December 9, 2016, at Applicant's initial appearance, the State offered a plea to armed robbery for a cap of twenty years. She further testified on January 6, 2017, Applicant accepted the offer.

She testified Applicant admitted his guilt to her and further admitted to being the gunman. She further testified this armed robbery occurred in a small area of Batesburg, and several law enforcement officers were around the area at the time, who all began to look for the assailants. She elaborated law enforcement found Applicant quickly, and he matched the description provided by the victim. She further elaborated law enforcement had to chase Applicant and his brother through the woods. Counsel also testified after Applicant and his brother were apprehended, law enforcement interviewed Applicant's brother. She explained during this interview, Applicant's brother confessed and also implicated Applicant in the

¹ Counsel also testified she gave Applicant a copy of his discovery.

robbery. She further explained Applicant never told law enforcement anything, but he also never told her he did not commit these crimes.

Counsel also testified she did not seek a translation of the victim's statement, which was in Spanish, because it did not concern her, given Applicant's confession to her and Applicant's brother's confession to law enforcement. She further testified she has no knowledge whether or not Applicant speaks Spanish, and she has never had the victim's statement translated. She testified she could not ascertain whether the statement was consistent with Applicant's brother's statement, and she does not know what the statement said. She elaborated she has not specifically discussed the statement with anyone. She further testified, however, the incident report gave a description of the robbers from the victim, which was in English. She elaborated in that description the victim indicated two black males robbed the store, one in all black and one in a white tank top and Nike shorts. She further elaborated there was nothing in the file to contradict this description.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Ineffective Assistance of Counsel

In a post-conviction relief action, an applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, the applicant

must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. 441, 334 S.E.2d 813.

The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Butler*, 286 S.C. 441, 334 S.E.2d 813. The applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." *Cherry*, 300 S.C. at 117, 385 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. In order to satisfy the prejudice prong of this test following a guilty plea, the applicant "must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

After careful review based on the standard discussed above, this Court finds Applicant has failed to carry his burden in this action. Below are this Court's findings in regards to each of Applicant's allegations of ineffective assistance of counsel.

7 *PM*

Counsel's alleged failure to challenge the evidence

Applicant alleges Counsel was ineffective for failing to challenge the evidence the State had against Applicant. Specifically, Applicant contends Counsel was ineffective for failing to review an English translation of the victim's statement, which was written exclusively in Spanish, with Applicant. Applicant further alleges Counsel was ineffective for failing to discuss the evidence with Applicant prior to his guilty plea. "A guilty plea generally acts as a waiver of all non-jurisdictional defects and defenses." *State v. Thomason*, 341 S.C. 524, 526, 534 S.E.2d 708, 710 (Ct. App. 2000) (citing *State v. Munsch*, 287 S.C. 313, 338 S.E.2d 329 (1985)). Through a plea, a defendant admits all of the elements of the offense charged and waives all defenses, except for the sufficiency of the indictment. *Id.* At Applicant's plea, Applicant indicated the facts as recited by the State were correct. Tr. 7. Indeed, Applicant admitted he robbed the Quick-Mart on August 5, 2016. Tr. 7. Furthermore, when asked whether or not he needed any more time to discuss his case with Counsel, Applicant responded he did not need any more time. Tr. 9. Based on Applicant's solemn admission of guilt at the plea, this Court finds Applicant has failed to establish Counsel was deficient.

Similarly, this Court finds Applicant has failed to establish any resulting prejudice from this alleged deficiency, as Applicant failed to present any concrete evidence of the victim's translated statement at the evidentiary hearing. "Although counsel should conduct a reasonable investigation into potential defenses, *Strickland* does not impose a constitutional requirement that counsel uncover every scrap of evidence that could conceivably help their client." *Tucker v. Ozmint*, 350 F.3d 433, 442 (4th Cir. 2003) (quoting *Green v. French*, 143 F.3d 865, 892 (4th Cir. 1998)). Moreover, "failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to

result." *Porter v. State*, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing *Moorehead v. State*, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). This Court finds Counsel's testimony with respect to this allegation very credible, whereas Applicant's testimony is not credible. Applicant's bare assertions as to what the victim's translated statement said, without more, do not give rise to the level of proof required for Applicant to meet his burden. Furthermore, Counsel testified law enforcement officers were able to obtain a description of the assailants, in English, and there was nothing in the file to contradict the description given. Counsel further testified the victim's statement did not concern her, as Applicant's brother and co-defendant had provided a full confession to this crime, also implicating Applicant. Additionally, Counsel testified after reviewing the discovery material with Applicant, Applicant indicated he wanted to plead guilty.² Based on the foregoing, this Court finds this allegation must be denied and dismissed with prejudice.

Counsel's alleged failure to prepare for trial

Applicant alleges Counsel was ineffective for failing to prepare for trial. In particular, Applicant alleges Counsel was ineffective for failing to advise Applicant of the elements of the offense, for failing to discuss potential defenses with Applicant, and for failing to discuss the advantages and disadvantages of trial with Applicant. "There is a strong presumption counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case." *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007). Moreover, when there is evidence that counsel met with Applicant in preparation for trial and there is no evidence additional preparation on the part of counsel would have affected the outcome at trial, counsel cannot be said to have been ineffective. *See Harris v. State*, 377 S.C. 66, 659 S.E.2d 140 (2008) (finding the post-conviction relief court's conclusion trial counsel's

² There is no indication the victim's Spanish-written statement concerned Applicant prior to his plea.

PHB

preparation was inadequate was not supported by the record when trial counsel met with the applicant prior to trial and the applicant offered no evidence or argument as to how trial counsel's lack of preparation prejudiced him), *abrogated on other grounds by Smalls v. State*, 422 S.C. 174, 810 S.E.2d 836 (2018).

This Court finds Counsel's testimony with respect to this allegation very credible, whereas Applicant's testimony is not credible. Counsel testified she met with Applicant three times, during which she and Applicant would discuss the charges, the elements of each charge, and all of the discovery materials. During these meetings, Applicant and Counsel would thoroughly review the plea offers, and Applicant never indicated to Counsel he wanted to proceed to trial. In fact, Applicant always insisted he wanted to plead guilty. Based on the foregoing, this Court finds Applicant has failed to establish any deficiency on the part of Counsel. In addition, Applicant has presented no evidence which would establish any prejudice on the part of Applicant. In particular, Applicant has wholly failed to provide this Court with any reason as to why additional preparation on the part of Counsel would have affected the outcome at trial. Accordingly, this allegation must be denied and dismissed with prejudice.

Counsel's alleged failure to investigate

Applicant further contends Counsel was ineffective for failing to investigate. "Although counsel should conduct a reasonable investigation into potential defenses, *Strickland* does not impose a constitutional requirement that counsel uncover every scrap of evidence that could conceivably help their client." *Tucker*, 350 F.3d at 442 (quoting *Green v. French*, 143 F.3d 865, 892 (4th Cir. 1998)). Moreover, "failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result." *Porter*, 368 S.C. at 385-86, 629 S.E.2d at 357, *abrogated on other*

grounds by Smalls, 422 S.C. 174, 810 S.E.2d 836 (citing *Moorehead v. State*, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." *Wiggins v. Smith*, 539 U.S. 510, 521-22 (2003). Here, Counsel testified Applicant did not give her any independent leads or witnesses to investigate. Indeed, Applicant admitted he did not provide Counsel with any leads or witnesses in order to investigate. Furthermore, Applicant admitted his guilt to Counsel and insisted he wanted to plead guilty. Based on the foregoing, this Court finds Counsel's conduct was reasonable under the circumstances. This Court further finds Applicant has failed to establish any resulting prejudice from the alleged deficiency, as Applicant did not provide Counsel with any information from which she could investigate his case. Accordingly, this allegation must be denied and dismissed with prejudice.

Involuntary Guilty Plea

Applicant further alleges his guilty plea was not voluntarily made. This Court finds Applicant's guilty plea was freely and voluntarily made. In evaluating issues concerning guilty pleas, this Court will consider the entire record, including the transcript of the guilty pleas and the evidence presented at the post-conviction relief hearing. *Roddy v. State*, 339 S.C. 29, 528 S.E.2d 418 (2000). Voluntariness of a guilty plea is not merely determined by an examination of a specific inquiry by the plea court alone but rather is determined by the record of both the guilty plea proceeding and the post-conviction relief hearing. *Id.* In order to find a guilty plea was knowingly and voluntarily 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). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the

charges" against the applicant; thus, an applicant's right to contest the validity of such a plea is usually foreclosed. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (citing *Blackledge v. Allison*, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." *Id.* (citing *Crawford v. United States*, 519 F.2d 347 (4th Cir. 1975)); *Edmonds v. Lewis*, 546 F.2d 566 (4th Cir. 1976).

This Court finds this allegation is without merit, and Applicant has failed to carry his burden of proving that his guilty plea was involuntarily made. This Court further finds Applicant's plea was entered into freely and voluntarily. The record before this Court reflects that the plea court thoroughly reviewed all of Applicant's constitutional rights with him, including his right to a jury trial. Tr. 8-9. Upon explanation of each constitutional right, Applicant indicated he understood and waived his constitutional rights. Tr. 8-9. Applicant further indicated no one had promised him anything, threatened him, coerced him, or mistreated him in order to get him to plead guilty. Tr. 7. Additionally, Applicant indicated he was pleading guilty of his own free will and accord, and it was his decision to plead guilty. Tr. 7.

Counsel testified she reviewed all discovery materials with Applicant and reviewed all of the elements which the State would be required to prove at trial, the potential punishments, and his constitutional rights to Applicant. Moreover, Counsel testified she had no indication whatsoever Applicant did not understand anything she explained to him. Counsel further indicated after their discussions, Applicant ultimately made the decision to enter the guilty plea.

Therefore, this Court finds Applicant had a full understanding of the consequences of his plea and the charges against him, and the plea court correctly found Applicant's plea was freely,

voluntarily, and intelligently made. Consequently, this allegation must be denied and dismissed with prejudice.

CONCLUSION

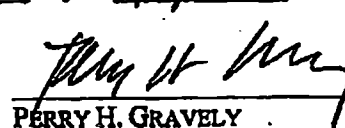
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

1. That this application for post-conviction relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to and remain in the custody of the State

AND IT IS SO ORDERED this 14th day of Sept, 2018.


 PERRY H. GRAVELY
 Presiding Judge
 Eleventh Judicial Circuit

Pridem, South Carolina

3 SCANNED JAN-29-2019

STATE OF SOUTH CAROLINA)
County of Lexington)
Stanley M. Goodbold #371029)
Full name and prison number (if any) of Applicant)

IN THE COURT OF COMMON PLEAS

2019 CP3200408

v.)
State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

FILED
2019 JAN 29 AM 9:41
LEE M. CRYER
CLERK OF COURT
LEXINGTON, SC

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention LEE C.I
2. Name and location of Court which imposed sentence _____
3. Name(s) of co-defendant(s) (if any) ALONZO MEYERS
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) ARMED ROBBERY (2016-CES-32-03050)
 - (b) _____

(c) _____

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

(a) JANUARY 10, 2017. 20 YEARS

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

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

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

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

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

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

(c) the date of each such result:

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

(d) if known, citations of 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) PUBLIC DEFENDER SARAH HAHN MAULDIN

(b) DID NOT APPEAL OR FILE A NOTICE TO APPEAL.

SCANNED JAN-29-2019

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

(a) (p.c.r) Attorney failed to file the notice of appeal.

(b) _____

(c) _____

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

(a) After the conclusion of the p.c.r hearing said

(b) attorney was advised to appeal, he did not.

(c) _____

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

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

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

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. (p.c.r)

ii. _____

iii. _____

iv. _____

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

i. Lexington County Court of Common Pleas

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

- i. DISMISSED WITH PREJUDICE
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. 9.14.2008
- 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?

NO

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) Attorney NEVER FILED THE P.C.R. APPEAL
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? YES
- (b) your trial, if any? _____
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Attorney NEVER FILED THE APPEAL NOTICE
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
(P.C.R.) YES

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

- (a) the name and address of each attorney who represented you:
 - i. ASSISTANT PUBLIC DEFENDER SARAH Hahn Mauldin
 - ii. ARTHUR K AIKEN, 2231 DEVINE STREET, SUITE 201, COLUMBIA, SC 29205
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. ARRAIGNMENT, PLEA AND SENTENCING
 - ii. (P.C.R.)
 - iii. _____

- 19. State clearly the relief you seek in filing this application:
TO BE ABLE TO APPEAL THE DECISION
OF THE P.C.R HEARING
- 20. Are you now under sentence from any other court that you have not challenged?
NON

STATE OF SOUTH CAROLINA)
 County of Lexington) VERIFICATION

I, Stanley M. Goodbold, 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.

[Signature]

SWORN to and subscribed before me this 17
 day of Jan, 2019.
[Signature] (L.S.)
 Notary Public

My Commission Expires: 3/3/2024

FILED
 2019 JAN 29 AM 9:41
 LISA M. COLETT
 CLERK OF COURT
 LEVINE 16180

2019CP3200408

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

I, S/m/ey Guobla, 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.

[Signature]
Applicant

SWORN or affirmed to and subscribed before me this

17 day of Jan, 2019.

[Signature]
Notary Public

My Commission Expires: 3/3/2026

SCANNED JAN-29-2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
)	
Stanley Ali Godbold, #371009,	)	Case No.: 2019-CP-32-00408
)	
Applicant,)	
)	
v.	)	RETURN
)	
State of South Carolina,)	
)	
Respondent.)	
)	

Respondent, making this amended return to the Amended Application for Post-Conviction Relief filed on January 29, 2019, would respectfully show this Court:

I. Procedural History

Stanley Ali Godbold (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. During its November of 2016 term, the Lexington County Grand Jury indicted Applicant for armed robbery (2016-GS-32-03050). Sarah Mauldin, Esquire, represented Applicant and Assistant Solicitor Angela G. Martin prosecuted the case on behalf of the Eleventh Circuit Solicitor’s Office. On January 10, 2017, Applicant appeared before the Jocelyn Newman and pleaded guilty to armed robbery as indicted. Judge Newman sentenced Applicant to twenty years’ imprisonment pursuant to a recommendation by the State, and with credit for time served. Applicant did not appeal his plea or sentence.

Applicant filed an Application for Post-Conviction Relief on May 22, 2017 (2017-CP-32-01809). The State made its return on July 21, 2017. An evidentiary hearing was held on July 31, 2018, before the Honorable Perry H. Gravely. Applicant was represented at the hearing by Arthur K. Aiken, Esquire. Respondent was represented by Assistant Attorney General Kelly Oppenheimer of the South Carolina Attorney General’s Office. Judge Gravely issued an Order of Dismissal on

September 14, 2018. Applicant did not appeal the denial of his application.

II. Current Application

Applicant filed his present Application for Post-Conviction Relief on January 29, 2019. Applicant alleges he is being held in custody unlawfully because his PCR counsel did appeal the denial of Applicant's first application for post-conviction relief. Applicant requests relief in the form of an appeal of the denial of his first application for post-conviction relief.

Attached to this Return, and incorporated herein by reference are the records of the Lexington County Clerk of Court, Applicant's records from the South Carolina Department of Corrections, the records from Applicant's first PCR case, and the present PCR Application. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III. Response to Applicant's Austin v. State¹ Claim

Respondent interprets the allegations from Applicant's Application to mean that Applicant did not knowingly and voluntarily waive his right to an appeal of the denial of his first application.

Successive applications such as the one before this Court are disfavored. S.C. Code Ann. § 17-27-90. Here, Applicant alleges he was denied the right to appeal the dismissal of his previous post-conviction relief application. Inherent in this allegation is a claim that former post-conviction relief counsel was ineffective. The Sixth Amendment right to effective assistance of counsel does not extend to state post-conviction relief actions. Coleman v. Thompson, 501 U.S. 722, (1991). Therefore, "the contention that prior PCR counsel was ineffective is not *per se* a 'sufficient reason' warranting a successive PCR application under [S.C. Code Ann.]§ 17-27-90." Aice v. State, 305 S.C. 448, 451, 409 S.E.2d 392, 394 (1991).

The only recognized exception to the rule barring claims of ineffective assistance of post-

¹ 305 S.C. 453, 409 S.E.2d 395 (1991).

conviction relief counsel is found in Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991): Austin provides for a belated appeal where prior post-conviction relief counsel fails to timely appeal the denial of the application. Id. at 454, 409 S.E.2d at 396; see S.C. Code Ann. § 17-27-100 (right to appeal final judgment by post-conviction relief court). But Austin “is limited to its particular factual situation.” Aice, 305 S.C. at 452, 409 S.E.2d at 394.2 Pursuant to Austin, an evidentiary hearing may be conducted in regards to a successive post-conviction relief application “on the issue of whether in fact the petitioner requested and was denied an opportunity to seek appellate review.” Austin, 305 S.C. at 454, 409 S.E.2d at 396. “If the circuit court finds that the petitioner never in fact sought discretionary review, the petitioner may appeal that finding.” Id. at 455, 409 S.E.2d at 396. Austin, therefore, allows an applicant to petition the Supreme Court of South Carolina for discretionary review of the dismissal of his initial post-conviction relief application, and may do so outside of the ordinary time limits for bringing such an appeal.

In light of the Austin rule, Respondent lacks sufficient information to admit or deny the allegation raised in this successive post-conviction relief action. Accordingly, Respondent requests an evidentiary hearing on this ground for relief.

IV. Discovery Issues

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this post-conviction relief application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the

² Aice was issued in conjunction with Austin, limiting the reach of Austin and holding “that once a PCR applicant obtains a complete adjudication on the merits of his original application, including an appeal, he may not make successive applications based on ineffective assistance of prior PCR counsel.” 305 S.C. at 454 n.1, 409 S.E.2d at 396 n.1.

evidentiary hearing. Because Applicant is represented by counsel, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCF. *Pro se* filings will not be considered at the post-conviction relief hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCF.

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

V. Denial of All Other Claims

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

VI. Conclusion

WHEREFORE, Respondent respectfully requests that the Court convene an evidentiary hearing on the sole issue raised in the Application.

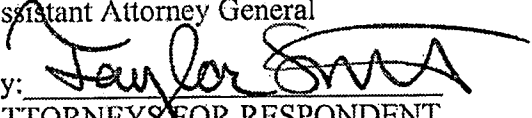
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

TAYLOR ZANE SMITH
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

May 28, 2019

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)
 STANLEY GODBOLD, #371009)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent,)
 _____)

IN THE COURT OF COMMON PLEAS
 2019-CP-32-00408

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 **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Ashley A. McMahan, Esquire
 McMahan & Taylor, Attorneys, LLC
 Post Office Box 5501
 West Columbia, South Carolina 29169

DATED this the 28th day of May, 2019.

Camille Henry
 Camille Henry, Legal Assistant
 For Respondent

1	State of South Carolina	)	In the Court
		)	Of Common Pleas
2	County of Lexington	)	Case No.: 2019-CP-32-00408
)	
3	Stanley Godbold,)	
)	
4	Applicant/Plaintiff,)	
)	
5	vs.	)	Transcript of Record
)	
6	State of South Carolina,)	
)	
7	Respondent/Defendant.)	
)	

8

9

June 28, 2019

10

Lexington, South Carolina

11

12 BEFORE:

13 The Honorable Brooks P. Goldsmith, IV, Judge

14

15 APPEARANCES:

16

Ashley A. McMahon, Esquire
Attorney for the Applicant/Plaintiff

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Taylor Z. Smith, Assistant Attorney General
Attorney for the Respondent/Defendant

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21 ALSO PRESENT:

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Stanley Godbold

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INDEX

PCR HEARING

WITNESS

PAGE

STANLEY GODBOLD

Direct Examination by Ms. McMahan

5

Cross Examination by Mr. Smith

6

Certificate of Reporter

9

EXHIBITS

APPLICANT/PLAINTIFF

NO. DESCRIPTION

ID

EVDS.

1 Affidavit of Arthur K. Aiken

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1 Thereupon, the following proceedings were had,

2 BAILIFF: All rise. Court's now in session. The
3 Honorable Brooks Goldsmith presiding Judge.

4 THE COURT: Good morning, ladies and gentlemen.

5 MR. SMITH: Good morning.

6 MS. McMAHAN: Good morning.

7 THE COURT: Please be seated.

8 MR. SMITH: May it please the Court. This is the
9 case of Stanley Godbold versus the State of South
10 Carolina. Case number 2019-CP-32-00408. Mr. Godbold is
11 presently confined in SCDC pursuant to orders of
12 committment of Lexington County Clerk of Court. During
13 its November of 2016 term the Lexington County Grand Jury
14 indicted him for armed robbery.

15 On January 10th, 2017 he appeared before the
16 Honorable Jocelyn Newman and pleaded guilty to armed
17 robbery as indicted. Judge Newman sentenced him to 20
18 years pursuant to the State's recommendation. He did not
19 appeal his plea or sentence. He then filed his PCR
20 application on May 22nd, 2017. A hearing was held on
21 July 31st, 2018 before the Honorable Perry Gravely. Mr.
22 Godbold was represented at that hearing by Mr. Arthur
23 Aiken, and Assistant Attorney General Kelly Oppenheimer
24 of the Attorney General's Office represented the State.
25 Judge Gravely issued an order of dismissal in September

1 of 2018, and Mr. Godbold did not appeal the denial of his
2 application.

3 Your Honor, this is a successive application that he
4 has filed in his current case and it's our understanding
5 that the single issue before the Court is whether he
6 knowingly and voluntarily waived his right to an appeal
7 of the denial of his first PCR application.

8 MS. McMAHAN: Your Honor, that is correct. Also,
9 just before we kind of get into it, we have an affidavit
10 from Art Aiken. We're both stipulating to this being
11 entered as an exhibit. This is the original. I'll get
12 the court reporter to mark it. Do you want it as a
13 Court's exhibit?

14 THE COURT: No.

15 MS. McMAHAN: Okay. Applicant's 1.

16 (Whereupon, Applicant's Exhibit #1 marked for
17 identification and received.)

18 MS. McMAHAN: Your Honor, Mr. Aiken obviously set
19 forth the issue basically that he, you know, he can't say
20 truthfully whether or not Mr. Godbold ever asked him to
21 appeal but he can't also say that he ever had a
22 conversation with him about an appeal. Typically he
23 would put it in a cover letter that you have a right to
24 appeal. Let me know. But in reviewing his file he
25 realized that he never put that in the letter to Mr.

1 Godbold in his last closing letter about the order.

2 THE COURT: All right. I see the affidavit so...

3 And so?

4 MS. McMAHAN: Yes, Your Honor. I was going to call
5 Mr. Godbold to the stand.

6 THE COURT: Okay.

7 Thereupon,

8 STANLEY GODBOLD

9 after having been first duly sworn, testified as follows,

10 DIRECT EXAMINATION

11 BY MS. McMAHAN:

12 Q. Would you state your name for the record please.

13 A. Stanley Godbold.

14 Q. And did you file this PCR application?

15 A. Yes, ma'am.

16 Q. And at the end of your last PCR, did you have a
17 conversation with Art about filing an appeal for you?

18 A. Yes, ma'am. I did.

19 Q. Did you tell him that you wanted him to file an
20 appeal for you?

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

22 Q. And when he sent you the final order and his cover
23 letter didn't have anything about it in there, did you try to
24 communicate with him to request an appeal?

25 A. Yes, ma'am.

1 Q. By then it was too late?

2 A. Yes, ma'am.

3 MS. McMAHAN: Okay. I have nothing further. Answer
4 anything Mr. Smith has.

5 CROSS EXAMINATION

6 BY MR. SMITH:

7 Q. Mr. Godbold, what was in that cover letter that Mr.
8 Aiken sent to you?

9 A. The - the final order.

10 Q. Did it mention anything about how you could
11 appeal?

12 A. No, sir.

13 Q. Did you ever ask him for an appeal?

14 A. Absolutely.

15 Q. Did he file one?

16 A. No.

17 MR. SMITH: Your Honor, I have no more questions.

18 MS. McMAHAN: I have nothing further, Your Honor.

19 THE COURT: Thank you. You may step down.

20 MS. McMAHAN: That's our case, Your Honor.

21 THE COURT: Applicant rests.

22 MR. SMITH: Your Honor, in light of the testimony
23 from Mr. Godbold today that is uncontradicted by any
24 testimony from the State and in light of the fact that
25 Mr. Aiken's affidavit indicates that he has no

1 independent recollection and would not be able to testify
2 as to whether they did or did not discuss the issue and
3 that he did not send a letter advising Mr. Godbold of his
4 appellate rights, that the State would consent and
5 concede the issue that he did not knowingly and
6 voluntarily waive his right to an appeal.

7 THE COURT: All right. And the applicant seeks what
8 relief?

9 MS. McMAHAN: Your Honor, we just seek the relief to
10 be able to go back and just file an appeal to the first
11 PCR basically based on Austin.

12 THE COURT: Within what period of time?

13 MS. McMAHAN: As soon as I get this order in this
14 case I will file a notice of appeal.

15 THE COURT: And you will probably do that how soon?

16 MS. McMAHAN: I have a draft order right here.

17 THE COURT: Oh.

18 MS. McMAHAN: (Proffering.) So pretty soon. I have
19 shown that to Mr. Smith also, Your Honor.

20 THE COURT: Let me not get things mixed up. Let me
21 hand this one back to the court reporter. Mr. Smith,
22 have you seen the draft of the proposed order in the
23 case?

24 MR. SMITH: I have, Your Honor. There's nothing in
25 there that I object to. I would maybe suggest that if we

1 can add a sentence saying that you find, that if you do
2 so find that he has not knowingly and voluntarily waived
3 his right to an appeal --

4 THE COURT: And I so find.

5 MR. SMITH: Okay. Then that will be the only
6 suggestion just to cover all the bases.

7 THE COURT: Now while we are all here, let me go
8 ahead, Ms. McMahan, do you have any objection to me
9 adding those words --

10 MS. McMAHAN: No, Your Honor.

11 THE COURT: -- to your proposed order?

12 MS. McMAHAN: None, Your Honor.

13 THE COURT: Okay. I have just signed the order and
14 I'll hand it back to Ms. McMahan.

15 MS. McMAHAN: Thank you, Your Honor. I believe
16 that's it. We're good on Mr. Godbold.

17 THE COURT: That's it.

18 WHEREUPON, THE HEARING WAS CONCLUDED.

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CERTIFICATE OF REPORTER

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2

(STATE OF SOUTH CAROLINA)

3

(COUNTY OF LEXINGTON)

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I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
and Official Circuit Court Reporter for the Eleventh Judicial
Circuit in and for the State of South Carolina, do hereby
certify that I reported the proceedings in the before
captioned case in the Court of Common Pleas in and for the
State of South Carolina on the 28th day of June, 2019.

11

12

I FURTHER CERTIFY that the forgoing 8 pages
constitute a true and accurate record of said proceedings.

13

14

I FURTHER CERTIFY that I am neither related, counsel
to, nor of interest to any party hereto.

15

16

IN WITNESS WHEREOF, I have hereunto set my hand at
Lexington County, this 31st day of July, 2019.

17

18



By: s/Steven E. LeBlanc

19

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Steven E. LeBlanc, Sr., R.P.R.
Eleventh Circuit Court Reporter
State of South Carolina.

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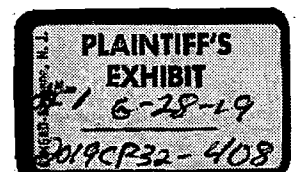
**STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON**

**COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT**

<p>Stanley A. Godbold #371009, Applicant vs. State of South Carolina, Respondent.</p>	<p>Case No.: 2019-CP-32-00408 AFFIDAVIT OF ARTHUR K. AIKEN</p>
---	--

PERSONALLY APPEARING BEFORE ME AND HAVING BEEN DULY SWORN, the undersigned, Arthur K. Aiken, deposes and says as follows:

1. I am over 18 years old, of sound mind and otherwise fully competent to make a statement under oath.
2. I have firsthand knowledge of all matters stated in this affidavit except for those matters stated on information and belief, and, as to those matters stated on information and belief, I reasonably believe them to be true.
3. I am now and have been since 1989 a member of the South Carolina Bar.
4. I represented the Applicant, Stanley A. Godbold (Godbold), in his initial PCR captioned Stanley A. Godbold #371009 v. State with civil action number 2017-CP-32-01809.
5. The Court denied relief on all grounds in Godbold' s initial PCR.
6. I understand that in this PCR, Godbold alleges that he asked me to file an appeal in his initial PCR.
7. I can not truthfully say with any certainty whether Godbold requested that I appeal.



8. I can say that I never had a conversation with Mr. Godbold in which I advised him of his appellate rights in his initial PCR.

9. It is my custom and practice to advise applicants of their appellate rights in the cover letter sent along with a copy of the final order.

10. I rely on this letter as documentary evidence that I have advised applicants of their appellate rights.

11. I have reviewed my file for Mr. Godbold's initial PCR, and, for some reason, the cover letter for the final order does not advise Godbold of his appellate rights.

FURTHER YOUR AFFIANT SAYETH NAUGHT

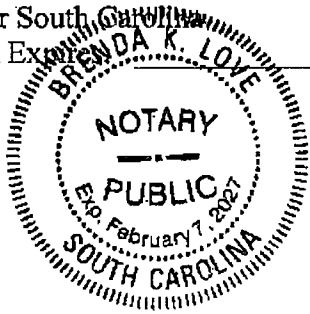
A. K. Aiken

Arthur K. Aiken

SWORN to before me this
27th day of June 2019.

Brenda K. Love

Notary Public for South Carolina
My Commission Expires _____



STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON) FOR THE 11TH JUDICIAL CIRCUIT
Case No.: 2019-CP-32-00408

Stanley Ali Godbold, #371009,
Applicant,
v.
State of South Carolina,
Respondent.

2019 JUN 28 PM 12:40
LISA M. COPPER
CLERK OF COURT

**ORDER GRANTING BELATED
APPEAL PURSUANT TO
AUSTIN V. STATE**

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed January 29, 2019. The Respondent made its Return on or about May 28, 2019. A hearing was held on June 28, 2019, at the Lexington County Courthouse. Present at the hearing was Ashley A. McMahan, Esquire on behalf of the Applicant and Assistant Attorney General Taylor Z. Smith on behalf of the State.

I.

The Applicant is currently confined in the South Carolina Department of Corrections. He was indicted at the November 2016 term of the Lexington County Grand Jury for Armed Robbery (2016-GS-32-03050). Sarah Hahn Mauldin represented the Applicant. The Applicant pled guilty on January 10, 2017, as indicted. The Honorable Jocelyn Newman sentenced him to twenty years imprisonment. The Applicant did not appeal his conviction or sentence.

2017-CP-32-01809

The Applicant filed his first PCR application on May 22, 2017. Arthur K. Aiken, Esquire represented the Applicant. A hearing was held on July 31, 2018, before the Honorable Perry H. Gravely. Judge Gravely dismissed this PCR by written order on September 14, 2018. Applicant did not appeal the denial of his

PCR application. *I find that the Applicant did not knowingly & intelligently waive his right to appeal this order.* II. *AB*


In the Applicant's current PCR application, he argues his PCR attorney failed to file a timely notice of appeal from Judge Gravely's order filed on September 18, 2018, and requests a belated PCR appeal pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). Generally, claims of ineffective assistance of PCR counsel are not recognized. (*See Aice v. State*, 305 S.C. 448, 409 S.E.2d 392 (1991). However, the exception to this is found in Austin, which provides for a belated PCR appeal where the prior PCR attorney fails to timely appeal the denial of a PCR application. Based on the presentation before this Court, the Applicant is entitled to an appeal from the denial of his first PCR application (2017-CP-32-01809).

III.

It appearing that the Applicant is entitled to a belated appeal from his first PCR matter and in light of the fact that this Court has not been made aware of any violations of the Applicant's constitutional rights, this Application for Post-Conviction Relief is dismissed.

IT IS THEREFORE ORDERED:

1. That this current Application for Post-Conviction Relief be dismissed.
2. That the Applicant is granted a belated appeal pursuant to Austin v. State from the denial of his first PCR application: 2017-CP-32-01809.

AND IT IS SO ORDERED!

BROOKS P. GOLDMSITH
PRESIDING CIRCUIT COURT JUDGE

Lexington, South Carolina.
June 28, 2019

WITNESSES

Batesburg Leesville Police Department
N. Carver
Law Enforcement Case #: 161339

DOCKET NO. 2016GS3203050

The State of South Carolina
County of Lexington

JAG
ARREST WARRANT NUMBER
2016A3220200228

COURT OF GENERAL SESSIONS
NOVEMBER TERM 2016

ACTION OF GRAND JURY

THE STATE
vs.
Stanley Ali Godbold

TRUE BILL

Foreperson of Grand Jury
Date: 11-14-16 *L. Scott Vint*

CDR #: 0139

VERDICT

Indictment for
ARMED ROBBERY WHILE ARMED WITH
A DEADLY WEAPON
§ 16-11-0330(A)

Foreperson of Petit Jury
Date:

DONALD V. MYERS, SOLICITOR

A TRUE COPY
[Signature]
Lex. Ct. C.C.P., G.S. & E.C.

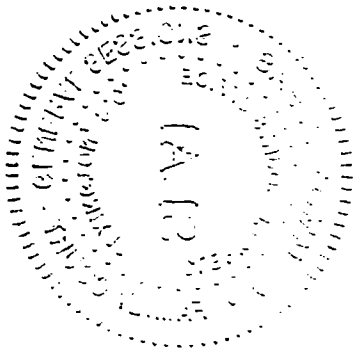
STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
ARMED ROBBERY WHILE ARMED WITH A
DEADLY WEAPON

§ 16-11-0330(A)

At a Court of General Sessions, convened on NOVEMBER 2016, the Grand Jurors of Lexington County present upon their oath:

That **Stanley Ali Godbold** along with a co-defendant in Lexington County, South Carolina on or about August 5, 2016 knowingly and willfully while armed with a deadly weapon to wit: did feloniously take from the person or presence of Amelia Gomez (a Quick Stop Convenience Store clerk), by means of force, threats or intimidation goods or monies being described as follows: U. S. currency with the intent to deprive the owner of the use of such property, in violation of Section 16-11-330 (A) of the South Carolina Code of Laws, 1976, as amended.



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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.
AKA: Stanley Ali Godbold
Race: Black Sex: M Age: 41
DOB: SS#:
Address:
City, State, Zip: Augusta, GA 30906
DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2016GS3203050
A/W#: 2016A3220200228
Date of Offense: 8/5/2016
S.C. Code §: 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET

Cap of active time - 20 yrs

*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

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, Negotiated Sentence, Recommendation by the State.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed 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.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Table with 2 columns: Description and Amount. Includes items like 14-1-206 (Assessments 107.5%), 14-1-211(A)(1) (Conv. Surcharge), 14-1-211(A)(2) (DUI Surcharge), 56-5-2995 (DUI Assessment), 56-1-286 (DUI Breath Test), Proviso 61.6 (Public Def/Probation), 14-1-212 (Law Enforce. Funding), 14-1-213 (Drug Court Surcharge), 50-21-114 (BUI Breath Test Fee), 56-5-2942(J) (Vehicle Assessment), 3% to County (if paid in installments).

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

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

TOTAL \$ 10500
Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (07/2016)
Presiding Judge: Judge Code: 27570
Sentence Date: January 10, 2017