

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Kristi F. Curtis, Circuit Court Judge

JAMES LAMAR TRAPP,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2019-000848

APPENDIX

ADAM SINCLAIR RUFFIN
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

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

ATTORNEYS FOR RESPONDENT

RECEIVED

NOV 27 2019

S.C. SUPREME COURT

INDEX

INDEX	I
GUILTY PLEA HEARING TRANSCRIPT DATED APRIL 10, 2017	1
APPLICATION FOR POST-CONVICTION RELIEF	29
AMENDMENT TO APPLICATION FOR POST-CONVICTION RELIEF	35
RETURN	37
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED FEB. 21, 2019	43
ORDER OF DISMISSAL	85
INDICTMENTS AND SENTENCE SHEETS	101

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS
3 No. 2017 GS 40 0504; 0503;
6526; 0508; 0506

4 STATE OF SOUTH CAROLINA)
5)
6 versus) TRANSCRIPT OF RECORD
7)
8 JAMES LAMAR TRAPP)
9 Defendant)

10 Columbia, South Carolina
11 April 10, 2017

12 B E F O R E :
13 HONORABLE CLIFTON NEWMAN, Judge Presiding
14

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

16 For the State: L. FYALL, Esq.
L. CAMPBELL Esq.
Assistant Solicitors
17
18 For the Defendant: M. EIGENBROT, Esq.
R. WILLIAMS, Esq.
Public Defenders
19
20 Reporter Present: C. HOLMES

21
22 HARRIET P. BENNETT
23 Reporter, S. C. Court Administration
46 Regency Oaks Drive
24 Summerville, S. C. 29485
25

I N D E X

1

2

3

Motions

p. 4

4

Plea entered

15

5

Sentencing

26

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

EXHIBITS

1

2

3

NO EXHIBITS WERE MARKED OR PROFFERED

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 (The within matter came before the Court for hearing on
2 April 10, 2017)

3 THE COURT: All right, State v. Trapp. Yes?

4 SOLICITOR: Yes, Your Honor. The State versus James
5 Lamar Trapp.

6 Your Honor, he's represented here by Meg Eigenbrot of
7 the Richland County Public Defender's Office, and this is
8 Rodney Williams, also here for the Defendant.

9 This is in regard to Motions which were filed in Mr.
10 Trapp's behalf.

11 MS. EIGENBROT: Your Honor, we did hand up a list of
12 pre-trial Motions. The State also has a copy.

13 We would also move to sequester the State's witnesses
14 for the trial. We have also brought this up before but we
15 would ask to be advised whether any of the State's witnes-
16 ses have any criminal records. We would ask to have this
17 information prior to any witness testifying.

18 THE COURT: All right, Solicitor. Do you agree to the
19 sequestration of the witnesses?

20 SOLICITOR: Yes, Your Honor.

21 THE COURT: All right.

22 MS. EIGENBROT: We would ask that the Solicitor go
23 over with us her witness list. There are several lay wit-
24 nesses on the list, and we would like to do that prior to
25 their testifying.

1 SOLICITOR: Yes, Your Honor.

2 THE COURT: So we will sequester witnesses then as
3 well?

4 SOLICITOR: Absolutely.

5 MS. EIGENBROT: We would ask that the witnesses be in-
6 structed not to speak to each other prior to their testify-
7 ing. That they not exchange information.

8 THE COURT: Would you so instruct your witnesses?

9 SOLICITOR: Yes, Your Honor.

10 THE COURT: Have you gone over with and explained to
11 the Defendant his constitutional rights?

12 MS. EIGENBROT: Yes, Your Honor.

13 THE COURT: And have you instructed the Defendant of
14 his right to be present and to confront the witnesses who
15 testify at trial against him?

16 MS. EIGENBROT: Yes, Your Honor.

17 THE COURT: And as well the Victim's Bill of Rights?

18 MS. EIGENBROT: Yes, Your Honor. We have gone over
19 all of his rights with him and as well the charges against
20 him.

21 We made a Motion to sever the charges. Mr. Trapp is
22 charged, Your Honor, with five separate charges of armed
23 robbery.

24 THE COURT: The victims have a right to be present un-
25 der the Victim's Bill of Rights.

1 MS. EIGENBROT: Yes, Your Honor, and, as I said, we've
2 moved to sever the charges.

3 We were in Court on March 14th when Mr. Trapp was then
4 served with a Notice of their seeking life without the pos-
5 sibility of parole.

6 At that time Ms. Campbell indicated to me that they
7 intended to go forward on two of the incidents. Your Honor,
8 those are the two incidents that they are moving forward on
9 today.

10 One of them occurred on July first involving a Domino's
11 Pizza and another incident later on that same day.

12 Your Honor, those are what they said they would go for-
13 ward on today, as I understand it, the incidents from July
14 the first.

15 THE COURT: Are those the incidents we are going for-
16 ward on today?

17 SOLICITOR: Yes, Your Honor.

18 MS. EIGENBROT: Your Honor, I can give you more of the
19 facts if you want to hear them now.

20 THE COURT: We'll get into the facts at a later point
21 I'm sure.

22 MS. EIGENBROT: Yes, sir.

23 THE COURT: I'll hear what they are alleging as far as
24 this case.

25 MS. EIGENBROT: Yes, sir.

1 THE COURT: I will hear anything you have that is re-
2 lated to the case we are going into today.

3 MS. EIGENBROT: Yes, Your Honor.

4 THE COURT: The facts of those cases.

5 MS. EIGENBROT: Yes, Your Honor.

6 As I mentioned, the first armed robbery was on July the
7 first and occurred at Domino's Pizza at (inaudible) Drive.

8 The individual went . . .

9 THE COURT: Where is that?

10 MS. EIGENBROT: I'm not exactly sure.

11 SOLICITOR: Near Two Knotts Road.

12 THE COURT: All right.

13 MS. EIGENBROT: Your Honor, reportedly a black male en-
14 tered the store with his face covered and with a weapon. He
15 then went up to the counter and told the employee of the
16 store to give him all the money.

17 She gave him some money and then he left from there at
18 that time.

19 Your Honor, there was a description given, and it was
20 also on the video. The individual was said to be a black
21 male -- the description given was that of a black male, ap-
22 proximately five ten, who was wearing a grey or black long-
23 sleeve shirt and black pants. It was also described as a
24 tee shirt.

25 Approximately thirty minutes later, Your Honor, after

1 leaving Domino's the individual entered (inaudible) Store
2 and demanded money.

3 The video shows him going around the counter and con-
4 fronted Mr. Green, one of the clerks. He was actually at
5 the counter where the manager, Mr. Senn, had been in the
6 office.

7 Mr. Senn came out to the register and at that point
8 the person was given some money which he attempted to place
9 in his pocket and I believe he laid the gun on the counter
10 there.

11 The manager obtained the gun and jumped on the suspect,
12 and there was a struggle. Another person I believe joined
13 in and they were able to detain the suspect. The persons
14 there in the store were holding him until the police ar-
15 rived on the scene.

16 The suspect was . . .

17 THE COURT: He didn't get away from the scene?

18 MS. EIGENBROT: No, Your Honor. He was captured on the
19 scene. He was not able to get away from the persons who
20 were holding him. He did get out of the store at one point
21 but they got to him again.

22 The police arrived when they had him outside.

23 THE COURT: Was any plea offer made in this case?

24 MS. EIGENBROT: The only proffer in this case was in
25 the range of forty-five to fifty years

1 THE COURT: Let me talk to Mr. Trapp for a moment.

2 MS. EIGENBROT: Yes, sir.

3 THE COURT: Mr. Trapp, we're going to swear you in.
4 Please raise your right hand. Just stand up here.

5 (Whereupon, the Defendant was sworn for purposes of
6 the within matter)

7 THE COURT: Mr. Trapp, I don't know how many charges
8 you have against you, but the State has indicated that the
9 Indictments are from January to July first of 2015.

10 The charges range from one count of attempting to
11 rob to possession of a weapon in the commission of a vio-
12 lent crime. It also appears that you have been served with
13 a Notice by the State to seek a sentence of life without
14 the possibility of parole.

15 Is that right?

16 DEFENDANT: Yes, sir.

17 THE COURT: And I am advised if you were to plead
18 guilty to crimes that could get you a sentence of forty-
19 five years.

20 DEFENDANT: Yes, sir.

21 THE COURT: And you have a choice of pleading guilty
22 here today to this negotiated plea -- is it a negotiated
23 plea or is there a recommendation . .

24 MS. EIGENBROT: Initially my understanding was a range
25 of forty-five to fifty.

1 (Discussion between counsel and the Court off the re-
2 cord)

3 THE COURT: So a negotiated sentence of forty-five to
4 fifty years.

5 That is the offer according to the Solicitor, and if
6 you plead guilty there is a negotiated sentence of forty-
7 five to fifty.

8 These are offenses where -- these are no parole offen-
9 ses so that means you would be sentenced to forty-five
10 years. Do you understand that?

11 DEFENDANT: Yes.

12 THE COURT: These are very involved offenses with a
13 lot of sentences, and you do not have to accept that nego-
14 tiated sentence. You could have a jury trial and if you
15 are found guilty the Judge could sentence you to life with-
16 out the possibility of parole, which means you would be in-
17 carcerated for the rest of your life unless they change the
18 law. Do you understand that?

19 DEFENDANT: Yes.

20 THE COURT: Of course, the jury might say not guilty.
21 Do you understand that as well?

22 DEFENDANT: Yes, sir.

23 THE COURT: So it is up to you at this time to make a
24 decision as to whether you want a jury trial or you want to
25 accept the negotiated plea.

1 DEFENDANT: I have no choice.

2 THE COURT: Do you accept the plea offer or do you want
3 to go to trial?

4 DEFENDANT: Plead guilty.

5 THE COURT: If you had a trial you could confront the
6 State's witnesses and you could call witnesses to testify
7 in your behalf. Do you understand?

8 DEFENDANT: Yes.

9 THE COURT: Have you made a decision on what you want
10 to do?

11 DEFENDANT: Yes, sir.

12 THE COURT: What's your choice?

13 DEFENDANT: I don't really have a choice.

14 THE COURT: You understand that if you were found to
15 be guilty the life sentence would mean that you would spend
16 life without parole.

17 DEFENDANT: I will go with the plea.

18 THE COURT: Now, do you have any questions about any-
19 thing in this process or my questions?

20 DEFENDANT: No, sir.

21 THE COURT: Do you understand everything we've gone
22 over?

23 DEFENDANT: Yes, sir.

24 THE COURT: Have you talked to your momma and your
25 granddaddy?

1 DEFENDANT: Yes, sir.

2 THE COURT: Have you talked about your decision you've
3 just made?

4 DEFENDANT: Yes, sir.

5 THE COURT: Do you need to talk with them any more?
6 Do you want me to allow you to talk with them? We can take
7 a few minute break while you chat with them or with your
8 attorney.

9 (Brief pause)

10 THE COURT: Is there anything further you want to ask
11 me? I know it's a tough choice for you to make.

12 DEFENDANT: Yes, sir.

13 SOLICITOR: If we could approach?

14 (Discussion off the record between counsel and the
15 Court)

16 THE COURT: Why don't we break for lunch and come back
17 and complete this? Do you think you'll be ready after the
18 lunch period?

19 MR. FYALL: We should be, Your Honor.

20 THE COURT: That will give him time to make his decis-
21 ion and for counsel to be ready to continue.

22 Two o'clock?

23 MR. FYALL: We'll be ready at two.

24 THE COURT: Then we'll break at this time until two
25 o'clock.

1 (Whereupon the Court stood in recess until the matter
2 was continued after the lunch break)

3 THE COURT: All right.

4 SOLICITOR: We'd call James Trapp.

5 (Brief pause)

6 Your Honor, standing before you is James Trapp, repre-
7 sented by Ms. Eigenbrot of the Public Defender's Office.

8 He is here to plead guilty to four counts of kidnapping,
9 four counts of armed robbery, one count of attempted armed
10 robbery.

11 In exchange for his guilty plea the State is withdraw-
12 ing the matter of his parole, and with a negotiated range
13 of forty-five to fifty years

14 THE COURT: Four counts of kidnapping, four counts of
15 armed robbery.

16 SOLICITOR: And one count of attempted armed robbery,
17 Your Honor.

18 THE COURT: One count of attempted armed robbery. All
19 right.

20 SOLICITOR: One of the victims is present and I don't
21 believe she wants to address the Court.

22 THE COURT: All right. Ms. Eigenbrot, you heard what
23 the Solicitor said. Is that your understanding as well?

24 MS. EIGENBROT: Yes, Your Honor

25 THE COURT: All right. Mr. Trapp, did you heard what

1 the Solicitor said?

2 DEFENDANT: Yes, sir.

3 THE COURT: And do you agree with what he said?

4 DEFENDANT: Yes, sir.

5 THE COURT: You are pleading guilty to four counts of
6 armed robbery?

7 DEFENDANT: Yes, sir.

8 THE COURT: And for pleading guilty to armed robbery
9 you could get a maximum of thirty years on each count. Do
10 you understand that?

11 DEFENDANT: Yes, sir.

12 THE COURT: And four counts of kidnapping which carry
13 on each count thirty years. Do you understand that?

14 DEFENDANT: Yes, sir, Your Honor.

15 THE COURT: And attempted armed robbery, that carries
16 up to twenty years, doesn't it?

17 MS. EIGENBROT: Yes, Your Honor.

18 THE COURT: Do you understand that, sir?

19 DEFENDANT: Yes, sir.

20 THE COURT: Now, I understand the State has served you
21 with a notice of seeking a life sentence without possibil-
22 ity of parole but you're pleading guilty to a negotiated
23 sentence.

24 So right now the guilty plea means you can only be
25 sentenced to the negotiated sentence of forty-five to fifty

1 years. Do you understand that?

2 DEFENDANT: Yes, sir.

3 THE COURT: If you were here pleading not guilty and
4 asking for a jury trial the State would have the burden of
5 proving your guilt to the jury beyond a reasonable doubt.

6 You would have a right to put up any defenses you might
7 have to the charges and confront the State's witnesses who
8 appear to testify against you.

9 Your attorney would examine the State's witnesses, but
10 when you plead guilty you give up those rights.

11 You may testify in your own behalf before the jury or
12 not. You have the right to remain silent and the jury can-
13 not hold that against you.

14 Do you understand your rights?

15 DEFENDANT: Yes, sir.

16 THE COURT: When you enter a guilty plea you give up
17 all of your constitutional rights. Do you understand?

18 DEFENDANT: Yes, sir.

19 THE COURT: Are you satisfied with how your lawyer has
20 represented you and handled your case?

21 DEFENDANT: Yes, sir.

22 THE COURT: You still want to plead guilty to these
23 charges?

24 DEFENDANT: Yes, sir.

25 THE COURT: You want to waive your right to a jury

1 trial and accept the negotiated sentence?

2 DEFENDANT: Yes, sir.

3 THE COURT: Are you guilty of each one of these charges,
4 the armed robberies, attempted armed robbery and the kidnap-
5 pings?

6 DEFENDANT: Yes, sir.

7 THE COURT: These offenses are classified in the law
8 as ^{most} serious offenses. Do you understand that?

9 DEFENDANT: Yes, sir.

10 THE COURT: And the most serious offenses mean that there
11 is a possibility of serving more time, and if there is at
12 some later time another most serious offense you can -- it
13 can carry life without possibility of parole. Do you under-
14 stand that?

15 DEFENDANT: Yes, sir.

16 THE COURT: Are you taking any medication or anything
17 that would affect your ability to understand what you are
18 doing?

19 DEFENDANT: No, sir.

20 THE COURT: Do you believe if you had asked for a trial
21 that the jury would most likely find you guilty?

22 DEFENDANT: Yes, sir.

23 THE COURT: Are you guilty of these charges?

24 DEFENDANT: Yes, sir.

25 THE COURT: Were you arrested on the scene?

1 DEFENDANT: Yes, sir.

2 THE COURT: So knowing and understanding the charges
3 against you as well as the possible punishments, how do you
4 plead? Guilty or not guilty?

5 DEFENDANT: Guilty.

6 THE COURT: And you were read the advice of rights
7 form upon your arrest, I believe.

8 DEFENDANT: Yes.

9 THE COURT: And I have explained your constitutional
10 rights to you here face to face, is that right?

11 DEFENDANT: Yes, sir.

12 THE COURT: So are you giving up those rights and enter-
13 ing your plea of guilty?

14 DEFENDANT: Yes, sir.

15 THE COURT: I'll hear from the State at this time.

16 Tell me about the charges.

17 SOLICITOR: Thank you, Your Honor.

18 The first incident occurred on June 23rd of 2015 at
19 about one ten in the morning at the Pantry Express at 1754
20 Two Knotts Road here in Richland County.

21 He entered the store and showed Christina Turner a
22 weapon and said or ordered her to give him everything she
23 had. Christina gave him a Hundred and One Dollars.

24 Then later that day the Defendant entered the Citco at
25 8901 Two Knotts Road wearing a mask and gloves

1 He had the victim, Mr. Senn, to open the register and
2 Mr. Senn gave him about Six Hundred Dollars.

3 He left the gloves which were found near the scene and
4 were recovered with a wallet and also (inaudible) which were
5 taken to the Solicitor's Office which turned out to be a
6 -- or taken to the Sheriff's Department which turned out to
7 be a match to Mr. Trapp.

8 The next incident occurred on June 26th of 2015 on
9 Wilson Boulevard at the Exxon. Mr. Portero was working and
10 the Defendant confronted him with a gun and said -- he or-
11 dered him down on the ground or he would shoot him.

12 Mr. Portero was robbed by Mr. Trapp. Mr. Portero was
13 interviewed by law enforcement and told them the Defendant
14 had got out of a pickup truck, a burgandy pickup truck.

15 When the officers tracked the truck down it turned out
16 to belong to Mr. Trapp's stepfather.

17 The next incident was at Domino's at 100 (inaudible)
18 Road. The Defendant was outside until he put something over
19 his face and entered the store.

20 He went up to the cash register and told the victim to
21 put his hands up. He then took money out of the register --
22 took all the money out and ran from the store.

23 When he left the store then he saw two persons out-
24 side the crime scene. He made them go in and stand behind
25 the register.

1 Mr. Trapp took a wallet from one of them and he sat the
2 gun down on the counter. One of them got the weapon and
3 got into a struggle with him. There was a tussle between
4 him and the Defendant and the Defendant ran from the store.

5 At some point Mr. Vorhees and another person who
6 worked at the store got him down and held him until the law
7 enforcement got there.

8 He was apprehended and transported from the scene.

9 THE COURT: Is all of that true, Mr. Trapp, what the
10 Solicitor just said?

11 DEFENDANT: Yes, sir.

12 THE COURT: Were you on probation or parole at that
13 time?

14 DEFENDANT: No, sir.

15 THE COURT: Anything further from the State?

16 SOLICITOR: Nothing on the facts.

17 THE COURT: Have you been in jail since that time?

18 DEFENDANT: Yes, sir.

19 THE COURT: Not able to make bond?

20 DEFENDANT: No, sir.

21 SOLICITOR: What was the basis for the negotiations?

22 SOLICITOR: Your Honor, as far as the negotiations, we
23 did talk to the victims in the case and we feel like this
24 is a strong case for life without parole. We considered it
25 in our negotiations.

1 His prior record, Your Honor -- he did have a record
2 from back in 2008, several counts of armed robberies, five
3 or six armed robberies, that were ultimately pled down to
4 four attempted armed robberies.

5 He received an eight year sentence on that. He had
6 been released approximately three months before these inci-
7 dents occurred on that sentence.

8 THE COURT: All right. Anything else from the State?

9 SOLICITOR: Nothing further

10 THE COURT: Did your victim want to say anything?

11 (Person speaking but her statements were not audible on
12 the record)

13 THE COURT: Anything further?

14 MR. FYALL: Just one other thing as far as victim im-
15 pact, Your Honor. One of the crime scene officers met with
16 one of the victims. He presented to law enforcement that he
17 has had some anxiety as a result of this incident. He came
18 to America/^{with his parents}when he was four years old and this was the only
19 time he has experienced anything like this.

20 He gave an example. He was at the movies with his girl-
21 friend and he saw a guy who looked like him and it took a
22 while for him to realize it was just a guy, but his instinct
23 made him anxious about the situation of seeing this person.

24 THE COURT: All right, Ms. Eigenbrot.

25 MS. EIGENBROT: Thank you, Your Honor.

1 MS. EIGENBROT: Your Honor, it has not been something
2 that was easy for us to think about, this case that is be-
3 fore you, that my client is facing forty-five years to life
4 in prison.

5 THE COURT: He has been aware that on these charges he
6 was facing for armed robbery four times the sentence that
7 is set out, as well as the amount of time for the kidnap-
8 ping, which would amount to more than a hundred years on the
9 charges.

10 As well, his record is another thing . .

11 MS. EIGENBROT: Yes, Your Honor.

12 THE COURT: All right.

13 MS. EIGENBROT: It is a situation where (portion inaudi-
14 ble due to noise on audio) the system has failed. I have
15 spoken to James several times about his past and his life
16 prior to this and he always has told me (inaudible due to
17 sound of sirens on audio).

18 THE COURT: Speak up. It's hard to hear over that.

19 MS. EIGENBROT: He has told me things that were not
20 pleasant to think about or hear about his past. I believe
21 when he entered the criminal justice system he had some dif-
22 ficulties with his life. Those were things that were never
23 addressed. . . I believe at some point he was homeless.

24 All of the studies show that when a young man is in-
25 carcerated at or below the age of twenty that the . .

1 THE COURT: How old . . .

2 MS. EIGENBROT: . . problems are never addressed.

3 THE COURT: How old was he when he got out?

4 MS. EIGENBROT: Twenty-two, Your Honor.

5 (Another portion inaudible due to sound of sirens on
6 audio record)

7 MS. EIGENBROT: I cannot recall exactly how old he was
8 when the prior offense occurred. His sentence was eight
9 years and I believe he got out in three or so years.

10 THE COURT: How did he do while he was in prison?

11 MS. EIGENBROT: I believe he did well while he was in
12 prison, at least after a short time. He did okay.

13 THE COURT: How old was he when he went in?

14 MS. EIGENBROT: Nineteen, Your Honor. I believe he ac-
15 tually did okay during his prison time and he was turned
16 loose early.

17 THE COURT: What led him to this point?

18 MS. EIGENBROT: He was still having some issues and he
19 was getting drugs. He suffered from depression but had not
20 gotten any help for that. He was getting drugs.

21 When he got out he (portion inaudible). He was being
22 blamed for things that were not his fault. His depression
23 continued and I believe unfortunately he went the wrong way
24 by using illegal substances.

25 THE COURT: Was he able to get that when he was in

1 prison?

2 MS. EIGENBROT: Yes, Your Honor. He told me it was -- if
3 not every day it was at least every other day.

4 His addiction is one reason he was not able to find a
5 job. That happens to a lot of young men after they are in-
6 carcerated. They have a hard time finding jobs.

7 He tried for a lot of different jobs but when it came
8 time to assess his stability he would not pass the required
9 testing.

10 THE COURT: Did he live at home when he was eighteen
11 or nineteen?

12 MS. EIGENBROT: Yes, Your Honor. He actually does not
13 know his biological father. He was raised by his mother
14 and his step-father, but in speaking with them, his mother
15 and his stepfather seem to treat him differently than his
16 younger brothers and sister.

17 His stepfather was also out of the picture part of the
18 time. He was a long distance truck driver and not at home
19 a lot.

20 So when he came home and couldn't find a job it was a
21 difficult thing along with the depression he already was suf-
22 fering from. He has never been on medication for depres-
23 sion. He has never talked with a counselor about it.

24 When he was incarcerated, of course, things were out
25 of his hands, but after he was out he had few friends. One

1 of his few friends that he told me about -- they were both
2 discussing giving up. He said that's what he did and this
3 is what happened.

4 The day that they were talking about and discussing it
5 with his friend he went to his mom's and he fell asleep.
6 When he woke up he found out he had lost his friend which
7 shocked him. There was a problem also with his little bro-
8 ther. All of that added to his depression, and I think
9 that is when he truly gave up.

10 Unfortunately, all of this is part of the result, a lo
11 long term result. He began with impulsive and reckless be-
12 haviors.

13 To be perfectly honest, Your Honor, Mr. Trapp is very
14 embarrassed by his actions. He has been embarrassed when
15 we have talked with him about his case. There is no ques-
16 tion about that.

17 I know he deeply regrets what he has done. He has
18 told me that he does and that he had a lot of anger going
19 on . .

20 THE COURT: But none of that was the fault of any of
21 his victims.

22 MS. EIGENBROT: That's true, Your Honor.

23 THE COURT: I mean, four armed robberies and what he
24 could be facing in the way of sentence . .

25 MS. EIGENBROT: Yes, Your Honor, and I . .

1 THE COURT: I mean, just think of the amount of time
2 he could receive in his sentencing.

3 MS. EIGENBROT: We have discussed all of that many
4 times. He feels genuine remorse as far as toward his vic-
5 tims. I don't believe at the time he was thinking about
6 what he was doing to them. He had given up on himself and
7 everything else. I believe he was on drugs at that time,
8 Your Honor, or at that point.

9 I'm not saying, Your Honor, he didn't know what he was
10 doing. He was aware of the circumstances he was in, where
11 he was and all of that.

12 THE COURT: Anything further?

13 MS. EIGENBROT: Yes, Your Honor. He understands he is
14 going to prison and that the sentence spoken of by everyone
15 is forty-five years. That's a long time.

16 THE COURT: Yes, it is.

17 MS. EIGENBROT: And based on the sentence, forty-five
18 to life, the percentages -- I don't know how many times,
19 but every time I've seen him we have talked about it. He
20 has not blamed me or the police or the Solicitor's Office
21 or blamed anyone else but himself. That is not typical.

22 When I would see him he would say he was okay and he
23 was going to be okay.

24 THE COURT: Anything you wish to tell me, Mr. Trapp?

25 MS. EIGENBROT: I believe he does, Your Honor.

1 THE COURT : All right.

2 MS. EIGENBROT: A lot of my clients blame everybody
3 else but themselves, so that is very rare. He has never
4 blamed anybody else. Not once.

5 DEFENDANT: There is not much I can say. I'm sorry..
6 I wish my family wasn't having to go through this.

7 Your Honor, nobody is responsible for what I've done
8 but myself. I've embarrassed my family and myself, and I
9 know I have to go to prison.

10 (Portion inaudible)

11 THE COURT: You committed robberies on June 23rd, on
12 June 26, November 6, November first. You had been incar-
13 cerated before so you knew what prison life was like.

14 DEFENDANT: When I got out I couldn't get a job and
15 it was a hard time. I took drugs . .

16 THE COURT: Do you have any children?

17 DEFENDANT: No, sir.

18 THE COURT: There is a recommended sentence of forty-
19 five to fifty years. In addition to the armed robberies
20 you have the kidnappings you are charged with.

21 Anything else from the State or the Defense?

22 SOLICITOR: Nothing from the State.

23 MS. EIGENBROT: No, Your Honor.

24 THE COURT: I have considered the negotiated sentence
25 of forty-five years. The sentence is thirty years on the

1 armed robberies and fifteen years on the kidnappings, to run
2 consecutive. On the count of attempted armed robbery, twenty
3 years concurrent. So fortyfive years on all charges.

4 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

CERTIFICATE

I, HARRIET P. BENNETT, Court Reporter for South Carolina Court Administration, hereby certify that the foregoing Transcript was prepared from the records of Crystal Holmes to the best of my ability, having been heard in the Court of General Sessions for Richland County on April 10, 2017.

FURTHER, I certify that I am neither of kin nor counsel to any party to this matter, nor do I have any interest in the same.



March 24, 2018

STATE OF SOUTH CAROLINA

County of Richland

In the Court of Common Pleas

James Lamar Trapp, # 347026

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

vs.

State of South Carolina

Name of Respondent.

APPLICATION FOR
POST-CONVICTION RELIEF**INSTRUCTIONS — READ CAREFULLY**

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

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention Broad River Corr. Inst
2. Name and location of Court which imposed sentence Richland County Court of
General Sessions
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 1- 2017 GS 4000504 (Armed Robbery) 2- 2017 GS 4000503 (Kidnapping)
 - (b) 3- 2017 GS 4006526 (Armed Robbery) 4- 2017 GS 4000508 (Armed Robbery)
 - (c) 5- 2017 GS 4000506 (Kidnapping)
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 1. 4/10/17 - 30 yrs concurrent 2. 4/10/17 - 15 yrs concurrent
 - (b) 3. 4/10/17 - 30 yrs concurrent 4. 4/10/17 - 30 yrs concurrent
 - (c) 5. 4/10/17 - 15 yrs consecutive

5. 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 _____

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

NO

7. If you answered "yes" to (6), list

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

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) Counsel failed to inform me of my right to appeal

(b) Counsel failed to file requested sentence reconsideration

(c) _____

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

(a) Ineffective Assistance of Counsel

(b) Ineffective Assistance of Counsel

(c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) Counsel failed to inform me of or file direct appeal/reconsideration

(b) Counsel failed to insure that I receive a mental health exam

(c) _____

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO

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

NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

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

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

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

15. If any ground set forth in (9) 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) This is my first Post Conviction relief Application
- (b) _____
- (c) _____

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

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

17. If you answered "yes" to one or more parts of (16), list:

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

- i. Megan A. Eigenbröt
1701 Main St. Suite 403 B. Columbia, S.C. 29201
- ii. _____
- iii. _____

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

- i. Plea and sentencing
- ii. _____
- iii. _____

18. State clearly the relief you seek in filing this application.

New Trial

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

NO

STATE OF SOUTH CAROLINA

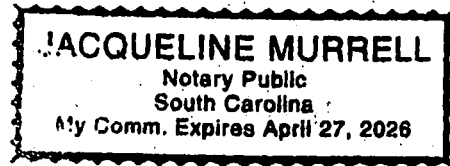
County of Richland

VERIFICATION

I, James Lamar Trapp, 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.

James Trapp

SWORN to and subscribed before me this 28th
day of December, 2017
Jacqueline Murrell (L.S.)
Notary Public



My Commission Expires: 4.27.26

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

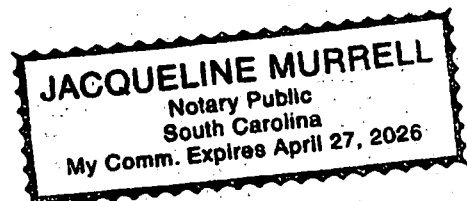
I, James Lamar Trapp, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (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 therefor.

James Trapp
Applicant

SWORN or affirmed to and subscribed before me this

28th day of December, 2017
Jacqueline Murrell
Notary Public



My Commission Expires 4.27.26

STATE OF SOUTH CAROLINA

COUNTY OF Richland

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

JAMES LAMAR TRAPP Plaintiff(s)

vs.

State of South Carolina

Defendant(s)

(Please Print)

Submitted By:

Address:

JAMES LAMAR TRAPP
BROAD RIVER CORR. INST
4460 BROAD RIVER RD.
COLUMBIA, S.C. 29210

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

2018-CP-40-0321

FILED
 JAN 17 PM 12:00
 JAMINETTE M. MCBRIDE
 C.C.P. & G.S.

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint ☐ NON-JURY TRIAL demanded in complaint
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|---|--|
| ☐ Contracts | ☐ Torts - Professional Malpractice | ☐ Torts - Personal Injury | ☐ Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☐ Medical Malpractice (220) | ☐ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | Previous Notice of Intent Case # | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☐ Breach of Contract (140) | 20 <u>-CP-</u> | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | ☐ Notice/ File Med Mal (230) | ☐ Personal Injury (350) | ☐ Possession (450) |
| | ☐ Other (299) | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☐ Other (499) |
| ☒ Inmate Petitions | ☐ Judgments/Settlements | ☐ Administrative Law/Relief | ☐ Appeals |
| ☐ PCR (500) | ☐ Death Settlement (700) | ☐ Reinstate Driver's License (800) | ☐ Arbitration (900) |
| ☐ Mandamus (520) | ☐ Foreign Judgment (710) | ☐ Judicial Review (810) | ☐ Magistrate-Civil (910) |
| ☐ Habeas Corpus (530) | ☐ Magistrate's Judgment (720) | ☐ Relief (820) | ☐ Magistrate-Criminal (920) |
| ☐ Other (599) | ☐ Minor Settlement (730) | ☐ Permanent Injunction (830) | ☐ Municipal (930) |
| | ☐ Transcript Judgment (740) | ☐ Forfeiture-Petition (840) | ☐ Probate Court (940) |
| | ☐ Lis Pendens (750) | ☐ Forfeiture-Consent Order (850) | ☐ SCDOT (950) |
| | ☐ Transfer of Structured Settlement Payment Rights Application (760) | ☐ Other (899) | ☐ Worker's Comp (960) |
| | ☐ Other (799) | | ☐ Zoning Board (970) |
| ☐ Special/Complex /Other | ☐ Pharmaceuticals (630) | ☐ Public Service Commission (990) | ☐ Administrative Law Judge (980) |
| ☐ Environmental (600) | ☐ Unfair Trade Practices (640) | ☐ Employment Security Comm (991) | ☐ Other (999) |
| ☐ Automobile Arb. (610) | ☐ Out-of State Depositions (650) | | |
| ☐ Medical (620) | ☐ Sexual Predator (510) | | |
| ☐ Other (699) | | | |

Submitting Party Signature:

X James TrappDate: 12/28/17

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

James Lamar Trapp, #347026,
Applicant,

AMENDMENT TO APPLICATION FOR
POST CONVICTION RELIEF

Vs.

Case No. 2018-CP-40-0320

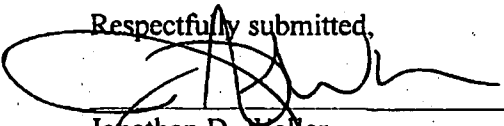
State of South Carolina

Respondent.

Applicant, by and through his Attorney, Jonathan D. Waller, Esquire, would amend his Application for Post Conviction Relief filed on January 17, 2018, by adding the claims of ineffective assistance of to question 10 and by adding the following specific prayers for relief to the original allegations of both his original Application as well as the Motion to Amend Post-Conviction Relief Application filed March 21, 2018:

1. As to representation rendered by Megan Eigenbrot, Esquire:
 - a. Counsel was ineffective for failing to properly investigate the facts and circumstances surrounding Applicant's prior criminal record and giving incorrect advice based on incomplete information, thus rendering Applicant's plea unknowingly and involuntarily entered into.

Respectfully submitted,


Jonathan D. Waller
Waller Law Group
116 Blanding Street
Suite 2B
Columbia, South Carolina 29201

ATTORNEY FOR APPLICANT

September 6, 2018

Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

James Lamar Trapp, SCDC #347026,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2018-CP-40-0321

RETURN

The State (Respondent), making its Return to the application for Post-Conviction Relief filed on January 17, 2018, would respectfully show this Court:

I. Procedural History

James Lamar Trapp (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court.

During its December 2015 term, the Richland County Grand Jury indicted Applicant for two counts of armed robbery (2015-GS-40-6523, -6526), two counts of kidnapping (2015-GS-40—65-15, 6520), and one count of attempted armed robbery (2015-GS-40-6520). During its February 2017 term, the Richland County Grand Jury indicted Applicant for two counts of kidnapping (2017-GS-40-00503, -00506), counts of armed robbery (2017-GS-40-00504, -00508). On March 14, 2017, the State served Applicant with notice of intent to seek life without parole based on his prior convictions pursuant to S.C. Code Ann. § 17-25-45.

Applicant was represented by Megan Eigenbrot, Esquire, and Rodney Williams, Esquire. The cases were prosecuted by Assistant Solicitor K. Luck Campbell of the Fifth Circuit Solicitor's Office. On April 10, 2017, Applicant appeared before the Honorable Clifton Newman, circuit court judge, for pre-trial motions. Following a colloquy with the court, Applicant indicated he wished to

waive his right to a trial and plead guilty. Applicant pled guilty to four counts of armed robbery, four counts of kidnapping, and one count of attempted armed robbery. Pursuant to negotiations between Applicant and the State, Judge Newman sentenced Applicant to an aggregate forty-five years imprisonment. Applicant did not appeal his convictions or sentences.

II. Allegations Raised and Relief Sought in Application

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

1. "Ineffective Assistance of Counsel"
 - a. "Counsel failed to inform me of or file direct appeal/reconsideration."
 - b. "Counsel failed to ensure that I received a mental health exam."

As relief sought, Applicant requests a new trial.

Attached to this Return and incorporated by reference are the records of the Richland County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III. Response to Allegations of Ineffective Assistance of Counsel

Applicant alleges various allegations of ineffective assistance of counsel. Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

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

that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV. Any Future Amendments

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

V. Response to Any and All Other Allegations

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

VI. Request for An Evidentiary Hearing

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

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

5/31 2018

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

JAMES LAMAR TRAPP, #347026,

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

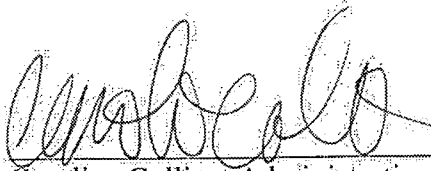
2018-CP-40-0321

AFFIDAVIT OF SERVICE BY MAIL

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

Jonathan D. Waller, Esquire
 Waller Law Group, LLC
 1116 Blanding Street, Suite 2B
 Columbia, South Carolina 29201

DATED this the 31st day of May, 2018.



Caroline Collins, Administrative Coordinator
 For Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
 COUNTY OF RICHLAND) 2018-CP-40-0321

JAMES LAMAR TRAPP)
)
 vs.) TRANSCRIPT OF RECORD
)
 STATE OF SOUTH CAROLINA)

FEBRUARY 21, 2019
 COLUMBIA, SOUTH CAROLINA

BEFORE THE HONORABLE KRISTI CURTIS

APPEARANCES:

SAMUEL L. KEY, ASSISTANT ATTORNEY GENERAL
 COLUMBIA, SOUTH CAROLINA

ATTORNEY FOR THE STATE

JONATHAN D. WALLER, ESQUIRE
 COLUMBIA, SOUTH CAROLINA

ATTORNEY FOR THE APPLICANT

SHIRLEY BROOM
 16TH Circuit Court Reporter

ALL FEES PURSUANT TO RULE 607 (h)(i), SCACR
 COPIES AVAILABLE UPON REQUEST FROM COURT REPORTER

I-N-D-E-X

WITNESSES:	DIRECT	CROSS	RE-DIRECT	RE-CROSS
------------	--------	-------	-----------	----------

JAMES LAMAR TRAPP

By Mr. Waller

9

By Mr. Key

22

By Mr. Waller

26

Megan Eigenbrot

By Mr. Key

28

By Mr. Waller

36

EXHIBITSDESCRIPTION:ID.EV.

NO EXHIBITS

1 MR. KEY - May it please the Court.

2 This is James Lamar Trapp versus State of South
3 Carolina, case number 2018-CP-40-0321. Applicant is
4 currently confined in the South Carolina Department of
5 Corrections pursuant to orders of commitment of the
6 Richland County Clerk of Court. In December of 2015, the
7 Richland County Grand Jury indicted applicant for two
8 counts of armed robbery, two counts of kidnapping and
9 one count of attempted armed robbery. During its February
10 of 2017 term, the Richland County Grand Jury indicted
11 applicant for two counts of kidnapping, armed -- and armed
12 robbery. On March 14th, 2017, the State served applicant
13 with notice of intent to seek life without parole based on
14 his prior convictions. He was represented by Megan
15 Eigenbrot, and the cases were prosecuted by Assistant
16 Solicitor Luck Campbell. On April 10th, 2017, applicant
17 appeared before Judge Clifton Newman for pre-trial motions.
18 Following a colloquy with the Court, applicant indicated he
19 wished to waive his right to a trial and plead guilty.
20 Applicant pled guilty to four counts of armed robbery, four
21 counts of kidnapping and one count of attempted armed
22 robbery. He entered his plea pursuant to negotiations, and
23 Judge Newman sentenced applicant to an aggregate 45 year --
24 45 years imprisonment. He did not appeal his sentences --
25 sentence for conviction. In his application for post-

1 conviction relief, he alleges ineffective assistance of
2 counsel. An amended post-conviction relief application was
3 filed and in the amended application he alleges counsel was
4 ineffective for failing to properly investigate the facts
5 and circumstances surrounding applicant's prior criminal
6 record and giving incorrect advice based on incomplete
7 information, thus rendering applicant's plea unknowing and
8 involuntary. He is present today and is represented by
9 Jonathan Waller. And at this time I will hand it over to -
10 --

11 THE COURT - Mr. Waller?

12 MR. WALLER - Judge, procedurally, Mr. -- Mr.
13 Trapp filed a pro se notice of motion to amend his
14 application March 21st of 2018. Judge, the State never
15 objected to it. It was never -- they filed their return
16 after that. When I filed my amendment -- September 10th of
17 2018, I -- I referenced it. I read -- I guess attempted to
18 incorporate it by reference. I still haven't heard any
19 objection from the State as to those issues. I don't know
20 if they have any objection. Just to be, I guess, on the
21 safe side, I will move to amend his application to include
22 those issues from the March 21st, 2018 filing. I don't
23 think there's any prejudice because it had been in the
24 clerk's file for almost -- for almost a year now.

1 THE COURT - And just to make sure I'm clear, I've
2 got his application for PCR, and then I've got your
3 amendments ---

4 MR. WALLER - Yes, ma'am. There -- there was
5 another filing March 21st of 2018..

6 THE COURT - So you did a second amendment?

7 MR. WALLER - That's correct, Your Honor.

8 THE COURT - I don't think I have a copy of that.

9 MR. WALLER - I don't believe I have a clocked
10 copy of that. It should be in the clerk of court's file.

11 (WHEREUPON, PAUSE IN RECORD)

12 MR. WALLER - Your Honor, I apologize, I have an a
13 digital copy, but I don't have a hard copy. I can adjust
14 (sic) that the State does not have one.

15 THE COURT - Mr. Key, you don't think you have a
16 copy of that?

17 MR. KEY - I don't think so, but ---

18 THE COURT - Okay, so you have a copy -- can you
19 e-mail it?

20 MR. WALLER - I can, Your Honor.

21 THE COURT - Madam clerk, can you e-mail it to you
22 ---

23 DEPUTY CLERK - Yes, Your Honor.

24 THE COURT - --- and let's make a copy, three
25 copies of it.

1 (WHEREUPON, PAUSE IN RECORD)

2 THE COURT - I see where Mr. Trapp did a amended -
3 - there's a handwritten one that's filed here.

4 MR. WALLER - That's correct, Your Honor.

5 THE COURT - Is that the one we're referring to?

6 MR. WALLER - That's the one we're looking for.

7 THE COURT - Okay. Let me ask you, because this
8 appears that he filed this ---

9 MR. WALLER - He -- he did, Your Honor.

10 THE COURT - --- after you had been appointed.

11 MR. WALLER - After I had been appointed.

12 THE COURT - And so what I'm looking at on line is
13 -- it's a handwritten -- it is -- it is available on line
14 but ---.

15 (UNIDENTIFIED FEMALE) - Yes, and I'm trying to
16 pull it up. It keeps -- maybe this is it ---

17 (WHEREUPON, PAUSE IN RECORD)

18 THE COURT - So it looks like the grounds in this
19 pro se amended application are failure to get a chain of
20 custody on the DNA swab that he gave while incarcerated, if
21 I'm reading this correctly, and then suggestiveness of some
22 kind of some identification made by a witness ---

23 MR. WALLER - Judge, I ---

24 THE COURT - --- during the course of
25 investigation.

1 MR. WALLER - --- I think there are essentially
2 two allegations of ineffective assistance of counsel for
3 failure to investigate prior to giving him the advice to
4 plea guilty. That's how I would characterize it, and
5 that's how I intend to present the ---

6 MR. KEY - No objection from the State.

7 THE COURT - Okay, so you've got -- you've got a
8 copy of that at least electronically in front of you?

9 MR. WALLER - Yes.

10 THE COURT - Are you looking at -- okay.

11 Okay, then I think we can go ahead and proceed.

12 MR. WALLER - Your Honor, one issue that we are
13 not going to be going forward on that was -- it is --
14 sorry, it's three different documents -- his original
15 application allege that counsel was ineffective for failing
16 to get a mental health evaluation. We're not proceeding
17 forward on that issue.

18 Thank you, Your Honor.

19 THE COURT - Thank you.

20 MR. WALLER - Your Honor, the applicant would call
21 James Trapp.

22 JAMES TRAPP, AFTER BEING FIRST DULY SWORN,
23 TESTIFIES AS FOLLOWS -

24 DEPUTY CLERK - Thank you. Please have a seat in
25 the witness stand and state your name for the record.

JAMES TRAPP - DIRECT BY MR. WALLER

9

1 MR. TRAPP - James Lamar Trapp.

2 MR. WALLER - All right, Mr. Trapp, if you could,
3 make sure you speak into that microphone so the court
4 reporter can get down everything you say.

5 MR. TRAPP - Sure.

6 MR. WALLER - Thank you. That's good.

7 DIRECT EXAMINATION

8 BY MR. WALLER -

9 Q Good afternoon, Mr. Trapp. How are you today?

10 A I'm blessed; how are you?

11 Q I'm doing well, thank you for asking. Mr. Trapp, in
12 this case that we're -- we're here talking about, you were
13 originally charged with five different incidents. Is that
14 right?

15 A Yes, sir.

16 Q Okay. They all came from separate events, not five
17 counts off one event; they're five separate. Is that
18 right?

19 A Yes, sir.

20 Q Okay. Were you arrested at the same time for all of
21 them, or were you arrested, bonded out, picked up another
22 one? How -- how did that work?

23 A I got arrested for the charge on July the 1st, and
24 then brought more charges on me.

1 Q Okay. So you were -- you were only arrested once, I
2 guess, is what I'm asking.

3 A Yes, sir.

4 Q Okay. And then you were served with some other
5 warrants after you were in the detention center.

6 A Yes, sir.

7 Q Okay. Who was your -- how did you get a lawyer?

8 A She came to see me in the county jail; Megan.

9 Q Okay. Who was your attorney?

10 A Megan -- I don't know how to say her last name.

11 Q Um, Ms. Eigenbrot? Is that?

12 A Eigenbrot, yeah, that's her name.

13 Q All right. And she represented you on all -- all
14 these charges.

15 A Yes, sir.

16 Q Do you remember exactly what all the charges you had
17 were?

18 A Yes, sir.

19 Q Okay. Can you tell the Judge, please?

20 A Four counts armed robbery, four counts of kidnapping,
21 one attempted armed robbery and three gun charges.

22 Q Okay. Did you -- what did you and Ms. Eigenbrot talk
23 about when she came to see you?

1 A Well, then we talked about going to trial, I wanting
2 to go to trial for everything beside one charge, and that
3 was the attempted armed robbery charge.

4 Q Okay. So you did not want to go to trial for the
5 armed robbery charge.

6 A Not at all.

7 Q Okay. Is that the charge that you were originally
8 arrested for?

9 A Yes, sir.

10 Q And you were caught at the scene. Is that right?

11 A Yes, sir.

12 Q Okay. The other charges you were not caught at the
13 scene.

14 A Wasn't caught at the scene of the crime. Police ain't
15 never came in and got me and questioned me about the
16 charges period.

17 Q Okay.

18 A They just served with the warrants.

19 Q Okay. Did you and Ms. Eigenbrot talk about the other
20 four armed robbery charges, for instance?

21 A Yes, sir.

22 Q Okay. What did y'all talk about?

23 A She basically telling me that the solicitor was trying
24 to charge me with everything.

25 Q Okay.

1 A She didn't want to drop nothing; she was trying to
2 charge me with everything.

3 Q Okay. In at least one of those cases you were picked
4 out of a line-up. Is that right?

5 A Supposedly I was picked out of a photo line-up.

6 Q Okay. Did you and Ms. Eigenbrot have a chance to talk
7 about the photo line-up?

8 A Not that I know of. I didn't -- I don't remember us
9 talking about it.

10 Q Okay. The allegations in that case were that the
11 person who committed the robbery was wearing a full-face
12 mask. Is that right?

13 A Yes, sir.

14 Q Did you and Ms. Eigenbrot ever talk about how a person
15 wearing a mask can be picked out of a line-up?

16 A No, sir.

17 Q Okay. Did you ever ask her about it?

18 A She said they could point me out a photo line-up,
19 though. She didn't mention nothing about no mask. She
20 just said they could point me out a photo line-up, though.

21 Q Okay. Did you understand that the person who
22 committed that robbery had been wearing a mask though?

23 A No, sir.

24 Q You didn't know that.

25 A I didn't recognize that til I got to prison.

JAMES TRAPP - DIRECT BY MR. WALLER

13

1 Q Okay, so you found out when you got to prison that the
2 person who committed one of these armed robberies had been
3 wearing a mask.

4 A Yes, sir.

5 Q Okay.

6 A In my um -- my voluntary guilty plea transcript.

7 Q Okay. There was some DNA testing done as well. Do
8 you recall that?

9 A Yes, sir.

10 Q Okay. Did you and Ms. Eigenbrot have a chance to talk
11 about the DNA testing?

12 A She mentioned it. She mentioned that they said they
13 found some -- some DNA of mine on some type of clothing.

14 Q Okay.

15 A Glove. I think that was it, though.

16 Q Okay. How did they know it was yours? Do you know?

17 A I'm not necessarily sure. I done been to prison, ---

18 Q Okay.

19 A --- been in the system.

20 Q So you had to give a DNA sample when you've previously
21 been in prison.

22 A Yes, sir.

23 Q Okay. Did y'all ever talk about how the DNA was
24 supposedly found in clothing that was matched to yours?

25 A No, sir. I ---

1 Q Did you ask her?

2 A No, because I didn't get locked up. When the per --
3 when that crime was committed, I just came home from
4 prison, but I didn't get apprehended by the police
5 department or anything.

6 Q Okay. Let me ask you this. The charges that you --
7 the incidents you were charged with, what -- what was the
8 timeframe on those?

9 A In my -- in my transcript it say from -- I got the
10 transcript right here. (Pause) The Court said, the State
11 has indictments -- they indicated that indictments are from
12 January to July 1st of 2015, but I was in prison from
13 January to April 1st, 2015.

14 Q Okay. Did you and Ms. Eigenbrot ever discuss that?

15 A No, sir.

16 Q Okay. Did y'all discuss that you were in prison --
17 you might -- obviously if you're in prison, you could not
18 be committing an armed robbery?

19 A No, sir.

20 Q Okay. Did ever bring it to her attention?

21 A I recently seen this in my transcript when I been in
22 prison.

23 Q Okay. Y'all didn't talk about it beforehand?

24 A She indicated that they had me dead to the wrong.

1 Q Okay. You were about to start a trial when you pled
2 guilty. Is that right?

3 A Yes, sir.

4 Q Okay. Were they going to try you on all five of
5 incidents?

6 A They were going to take me to trial for everything.

7 Q Okay. Were they going to take you to trial on the
8 attempted armed robbery and one other armed robbery that
9 occurred on the same day? Does that sound right?

10 A Yes, sir.

11 Q Okay. And you'd been served with notice for notice to
12 seek -- with intent to seek life without parole? Is that
13 correct?

14 A Yes, sir.

15 Q Okay. Did you and Ms. Eigenbrot discuss how the State
16 could try to put you in prison for life without parole?

17 A She mentioned it though.

18 Q Okay, what -- what did y'all talk about?

19 A Basically I was saying I just wanted to plead guilty
20 to attempted armed robbery, that I knew I was guilty of the
21 charge, but I wanted to go to trial for everything else,
22 but she said I couldn't do that.

23 Q Okay.. Did you ask her why you couldn't?

24 A She just said I couldn't do it.

1 Q Okay. Did you ever -- were you ever made aware of any
2 surveillance video or anything like that in the case?

3 A No, sir.

4 Q Okay. Did you and Ms. Eigenbrot ever have a chance to
5 view any videotapes or things ---

6 A Never looked at no -- I never look at no video,
7 because I felt like I was innocence.

8 Q Okay. Did you know there was a video?

9 A She said she had a video, but I didn't want to watch
10 no video.

11 Q Okay. So she had a copy of a video, but you never saw
12 it; you didn't want to watch it.

13 A Nah, because I feel like I was innocent.

14 Q Okay. All right. What were the prior convictions
15 that you had?

16 A When I went to prison in 2011, I pled guilty to four
17 attempted armed robberies and one criminal conspiracy.

18 Q Did you and Ms. Eigenbrot ever discuss those charges?

19 A She said they counted -- she said they counted all as
20 one, to four attempted armed robberies one -- like one
21 strike, I guess.

22 Q Did you have an attorney when you pled to those?

23 A Yes, sir.

24 Q Okay. Did y'all discuss why they would be counted as
25 one?

1 A He never -- he never -- he never mentioned to me -- he
2 never mentioned to me about any of the things.

3 Q Okay. All right. Did you and Ms. -- your plea was
4 for a negotiated range of 45 to 50 years. Do you recall
5 that?

6 A Yes, sir.

7 Q Did y'all ever discuss what negotiated meant?

8 A Basically I plead to all 12 charges, that I was --
9 that I was currently charged with.

10 Q Did you ever discuss with Ms. Eigenbrot about a -- a
11 motion for reconsideration of your sentence?

12 A Yes, sir.

13 Q Okay. Did you ask her to file one?

14 A Yes, sir.

15 Q Did y'all ever -- do you know if she ever did file
16 one?

17 A Didn't know if she filed it or not, but I mentioned.

18 Q Did you ever discuss with her about filing an appeal?

19 A That's the -- appeal -- appeal it after ten days.
20 Right?

21 Q That's correct.

22 A Yes, sir.

23 Q Okay. Did you ask her to file one?

24 A Yes, sir.

25 Q Do you know if she did file one?

1 A No, sir.

2 Q You don't know or she did not?

3 A I don't know if she did or not.

4 Q When you pled, the weapons charges against you were
5 dismissed. Is that your understanding?

6 A Yes, sir.

7 Q Did you and Ms. Eigenbrot ever discuss why that -- why
8 they were dropped?

9 A Honestly, original -- the original plea agreement was
10 for me to plead guilty to ever charge that I had. That
11 what -- that what prosecution wanted me to do, to plea to
12 all 12 charges, four attempted -- I mean four armed
13 robberies, four kidnapping, attempted armed robbery and the
14 gun charges.

15 Q Okay. And you talked about -- talked earlier that you
16 wanted to go to trial for the four armed robberies.

17 A Four armed robberies and the four kidnappings.

18 Q Four kidnappings. Did you and Ms. Eigenbrot ever
19 discuss actually going forward with that trial?

20 A I mentioned -- I mentioned it to her about me going to
21 trial for the four armed robberies and four kidnappings.
22 She said I couldn't do it because of the solicitor.

23 Q Okay.

24 A Ms. Campbell.

25 Q Okay, what do you mean you couldn't do it?

1 A She said -- she mentioned something about Luck
2 Campbell didn't want that to happen, something in that type
3 nature, that she wanted to go to trial on everything
4 including attempted armed robbery. I knew I was guilty for
5 the attempted armed robbery. I didn't want to go to trial
6 for all that.

7 Q Okay. Let me ask you this, Mr. Trapp. At some point
8 something changed and you ended up pleading guilty to all
9 of these charges. Is that right?

10 A Yes, sir.

11 Q Why did you plead guilty?

12 A She said I would get life for everything, so just pled
13 guilty.

14 Q Okay. You mentioned a little while ago that you had
15 brought to Ms. Eigenbrot's attention some -- some issues
16 you saw in some of the cases, the DNA, the -- the line-up.
17 Did you discuss any of those with her?

18 A I mentioned it the times she came to see me.

19 Q Okay. And do you recall what her response was?

20 A Not necessarily. I don't know why.

21 Q Okay. Mr. Trapp, what ---

22 A I do -- I do remember when I did go to my DNA hearing,
23 and they didn't find none of my DNA on the gun, I think it
24 was a gift card and something else. She came and seen me
25 and she was like she still don't understand why they was

1 still trying to charge me with these four counts of armed
2 robbery and four counts of kidnapping, that my fingerprints
3 wasn't on the gun, and if my fingerprint wasn't on the gun,
4 this couldn't be the same gun used in the crime. She did
5 mention that, though.

6 Q Okay. So y'all discussed that there were some, I
7 guess, issues with the State's case, because they didn't
8 have DNA on certain things, the gun, the gift card, things
9 like that?

10 A Yes, sir.

11 Q Okay. And then you ended up pleading guilty to those
12 four incidents, though.

13 A Yes, sir, eventually.

14 Q Why did you do that?

15 A She said I couldn't go to trial.

16 Q Okay. I can't go to trial separately for them type of
17 charges, so I didn't go to trial.

18 Q Okay. Mr. Trapp, what -- is there anything you think
19 I've left out or neglected to bring to the Court's
20 attention about Ms. Eigenbot's representation of you?

21 A The chain of custody ---

22 Q Okay.

23 A --- and the witnesses saying they pointed me out of
24 photo line-up ---

25 Q Okay.

1 A --- and the individual who robbed these establishments
2 had a mask on their face, so if the individuals had a mask
3 on their face, you can't point me out of a photo line-up.

4 Q Okay, so you had an issue with the photo line-up and
5 the way you were picked out of it.

6 A Yes, sir.

7 Q Okay. You -- you had an issue with the chain of
8 custody of the DNA that was found ---

9 A Who handled the DNA.

10 Q Who handled it and how it was processed.

11 A Yes, sir.

12 Q You brought those to Ms. Eigenbrot's attention.

13 A I mentioned it to her.

14 Q Okay. And do you recall what she said?

15 A Not necessarily, though.

16 Q Okay. And then when we get to the end, you plead
17 guilty to those things.

18 A Yes, sir.

19 Q And you testified earlier that you wanted to go to
20 trial on the four armed robberies ---

21 A I wanting to go to trial ---

22 Q --- and the kidnappings.

23 A I wanted to go to trial on the four counts of armed
24 robbery and the four counts of kidnapping.

1 MR. WALLER - Mr. Trapp, I don't have anything
2 further for you. Please answer any questions Mr. Key has.

3 MR. TRAPP - Yes, sir.

4 CROSS EXAMINATION

5 BY MR. KEY -

6 Q Good afternoon, Mr. Trapp.

7 A Good afternoon.

8 Q How many times did you meet with Ms. Eigenbrot leading
9 up to your guilty plea?

10 A She came to see me couple times.

11 Q Couple times.

12 A I'm saying -- I'm saying prior to -- prior to me going
13 to trial she came to see me with one of her assistants, but
14 like she supposed to come see me that weekend; she didn't
15 come, and I ended up going -- supposedly be going to trial
16 on a Monday, but then I don't know why -- I don't the 10th
17 -- what day the 10th was originally on. That's when I seen
18 her again.

19 Q Okay. And you wanted to go to trial on the armed
20 robbery and kidnapping charges.

21 A Four counts of armed robbery and four counts of
22 kidnapping.

23 Q But not the attempted armed robbery.

24 A No, sir.

1 Q Okay. And you had previously been convicted of
2 attempted armed robbery?

3 A Four counts.

4 Q Four counts?

5 A Yes, sir.

6 Q And the State served you LWOP notice before -- before
7 your trial?

8 A I think about a month before I went to trial.

9 Q Did your attorney discuss with you what LWOP notice
10 meant?

11 A Life without parole.

12 Q Okay. Did she discuss with you the strikes?

13 A She mentioned like I was convicted of the charges that
14 I was currently charged with I can get life without parole;
15 she mentioned that.

16 Q Did she mention that if you got convicted of one of
17 the charges, you could get life without parole?

18 A She mentioned it.

19 Q She did.

20 A (No response)

21 Q Okay. And did -- did your attorney go over the
22 discovery with you?

23 A She did to a certain extent.

24 Q Okay. You mentioned she -- she mentioned a video.

25 A Videos.

1 Q Videos. But you did not want to see them.

2 A Feel like I was innocent.

3 Q Okay. Did she offer to show you the videos?

4 A I told her I didn't want to see them, because I feel
5 like I was innocent.

6 Q Okay. Now, did -- was there a motion to sever the
7 charges filed?

8 A Say that one more time.

9 Q Did your attorney file a motion to sever the charges
10 so you wouldn't have to go forward on all of the charges?

11 A Not that I know of.

12 Q Okay. Now, did you decide to plead guilty?

13 A After talking with her when she said I couldn't go to
14 trial on the four counts of armed robbery and four counts
15 of kidnapping.

16 Q Okay. So she told you that you couldn't go to trial
17 on just ---

18 A The four counts of armed robbery and four counts of
19 kidnapping.

20 Q And that you would have to go on all of them.

21 A That was she said Luck Campbell said, though, so I did
22 it ---

23 Q Okay. Did your attorney tell you of any plea offers
24 made by the State?

1 A To be honest with you, necessarily wasn't no -- really
2 wasn't no plea offers until she -- they kept screaming
3 life. Really wasn't no plea offers really..

4 Q Do you remember at your plea hearing the State reading
5 the facts on the record the factual basis for your plea?

6 A Not necess -- to be honest with you, my mind was in
7 distraught, honestly, though, I'm sorry. I really don't
8 necessarily remember.

9 Q Do you remember the Judge asking you or advising you
10 of constitutional rights, rights you were waiving by
11 pleading guilty?

12 A He said some things like that, but like I told her, I
13 really wasn't paying attention, because my mind was in
14 distraught about the time they were trying to give me.

15 Q Do you remember if you were placed under oath?

16 A I was placed under oath.

17 Q Okay. But you were just going through the motions?

18 A Just going through the motions. My mind was somewhere
19 else, though.

20 Q Now, did Ms. Eigenbrot or did y'all discuss filing an
21 appeal?

22 A I mentioned it to her.

23 Q You mentioned it to her.

24 A Yes, sir.

25 Q So did she -- when did you mention it to her?

1 A During the -- during the voluntary guilty plea,
2 because it's -- isn't it -- isn't it 10 days -- right? --
3 you got to file a direct appeal in 10 days?

4 Q So ---

5 A I'm saying within 10 days. Right?

6 Q Did you ask her the day of your guilty plea to file an
7 appeal?

8 A Yes, sir.

9 MR. KEY - No further questions.

10 THE COURT - Mr. Waller?

11 MR. WALLER - Very briefly, Your Honor.

12 RE-DIRECT EXAMINATION

13 BY MR. WALLER -

14 Q Mr. Trapp, you plead guilty the morning -- the day you
15 were supposed to start a trial. Is that right?

16 A I want -- I want to say it was the morning-time. I'm
17 not really sure.

18 Q Okay, but it was the same day your trial was supposed
19 to start.

20 A Supposed to start, supposed to pick my jury.

21 Q Okay. Had you and Ms. Eigenbrot met and -- to get
22 prepared to go to trial?

23 A I'm saying she came to see, like I said, with one of
24 her assistants, and she was supposed to come see me that
25 weekend, but she never came, though, so she -- see I came -

1 - came to Court on the van down here, and we talked
2 downstairs.

3 Q Okay. Had y'all done preparations for the trial that
4 was supposed to start that day?

5 A We was supposed to do that weekend. She said she was
6 supposed to come see me that weekend, so, I guess, we'd go
7 over things because she wanted to talk about some of the
8 things.

9 Q Okay. And the trial that was scheduled to start, you
10 -- you believe was for all of the charges, all five?

11 A That's what was told to me.

12 Q Okay.

13 MR. WALLER - Nothing further. Thank you, Mr.
14 Trapp.

15 MR. KEY - Nothing from the State.

16 THE COURT - You can step down, sir.

17 MR. TRAPP - Yes, ma'am.

18 MR. WALLER - Nothing further from the applicant.

19 MR. KEY - The State would call Ms. Megan
20 Eigenbrot.

21 MEGAN EIGENBROT, AFTER BEING FIRST DULY SWORN,
22 TESTIFIES AS FOLLOWS -

23 DEPUTY CLERK - Please have a seat in the witness
24 stand and state your name for the record.

1 MS. EIGENBROT - Megan Eigenbrot. First name is
2 M-e-g-a-n. Last name is E-i-g-e-n-b-r-o-t.

3 DIRECT EXAMINATION

4 BY MR. KEY -

5 Q Do you recall when you were appointed to represent Mr.
6 Trapp?

7 A I do not remember the specific day. I do know that we
8 opened our file on February 19th -- or I'm sorry -- July
9 10th of 2015, which is approximately a week after his
10 arrest.

11 Q And you're with the Fifth Circuit Public Defender's
12 Office?

13 A That's correct.

14 Q How long have you been with the public defender's
15 office?

16 A Five years now.

17 Q Five years. How many times did you meet with Mr.
18 Trapp?

19 A Just give me a second to look in my notes. (Pause) I
20 met with him approximately 12 times over the course of my
21 representation.

22 Q Did you receive the discovery in this case?

23 A I did.

24 Q Do you think you received all of the discovery?

1 A Absolutely, because we were preparing to go to trial
2 on the two charges..

3 Q And did you review the discovery with Mr. Trapp?

4 A As much as I could. As he mentioned, he did not want
5 to view the one video in particular of the attempted armed
6 robbery, but he was aware of it.

7 Q He was. Okay. Now, leading up to trial, did you file
8 any motions?

9 A Yes. We filed several motions in preparation for
10 trial in regards to getting further discovery, and then we
11 filed several pre-trial motions. Most importantly, we
12 filed a motion to sever as Ms. Campbell was proceeding on
13 two charges at that moment for trial. The one was the
14 attempted armed robbery charge; the second one was an armed
15 robbery kidnapping offense that occurred the same incident.
16 I -- based on the array of charges, I refer to the
17 incidents based on the alleged victims in the case, so the
18 second armed robbery offense we were going forward on was
19 the Dominos armed robbery and then the -- what they call
20 the AM/PM store which is the attempted armed robbery. At -
21 - the Dominos was the same -- at the same time so I filed -
22 - because they were going forward on those two offenses at
23 the same time -- I filed a motion to sever the charges
24 based on the circumstances and that was the motion I was

1 arguing when Judge Newman stopped us and asked if we were
2 sure Mr. -- Mr. Trapp did not want to plead guilty.

3 Q And the State served LWOP notice in this case, ---

4 A They did.

5 Q --- because of his prior record.

6 A That's correct.

7 Q Okay. And if he had been found guilty of the
8 attempted armed robbery at trial, could you tell us what
9 that would mean?

10 A He would've been given a life sentence without any
11 discretion from the Judge.

12 Q Okay. Even for just the one ---

13 A Even with just the one ---

14 Q --- attempted ---

15 A --- attempted armed robbery.

16 Q Did you explain that to Mr. Trapp?

17 A Yes, and I think that's kind of where some of the
18 confusion was, because as he said, James always wanted to
19 plead to that one charge. There was no question about him
20 being present; it was on -- on video; he was held there
21 until law enforcement arrived, which is -- that's all on
22 video. There -- the other four charges were more
23 circumstantial. There were issues with the other charges.
24 They were not perfect by any means. The problem was, Ms.
25 Campbell, the prosecutor, was gonna call the slam-dunk

1 case. There was nothing I could do to change her calling
2 of what case at which time, and that's what I kept
3 explaining to him was she's going to call the slam-dunk
4 case if you're not pleading to something, and that was the
5 attempted armed robbery, and if his (sic) conviction of
6 that, it would've been a life sentence.

7 Q Did the State make any offers leading up to trial?

8 A At some point Ms. Campbell offered him 60 years for
9 which we obviously declined. Later, as we got closer, we
10 continued to argue about sentences. I asked several times
11 for a 20 to 30 year range as I did not think the offer she
12 was making was fair. At some point I even went to Judge
13 McMahon and sat down with him and Ms. Campbell to
14 essentially beg her to remove the LWOP notice, to let us
15 plead straight up and ask for what we thought was
16 appropriate. Judge McMahon did not force her to do so; he
17 encouraged it, however, she refused and at the end result
18 she offered a negotiated 45 to 50. Ms. Campbell -- that's
19 how she operated. If she had a slam-dunk case, she made
20 the offer she was going to make, and she negotiated it so
21 you really didn't have any wiggle room. I do not think it
22 was fair. I think James was put in a really terrible
23 decision-making situation, but that was the situation he
24 was in.

25 Q And you explained all of this to him?

1 A Yes, on numerous occasions.

2 Q Did he know what was going on?

3 A Yes, I believe so.

4 Q Could you briefly characterize the State's evidence
5 against Mr. Trapp in this case?

6 A As I mentioned, the attempted armed robbery is the one
7 that I was mainly focused on based on the circumstances in
8 that case. You see on video surveillance an individual
9 enter the store, pull a weapon and point that weapon at the
10 two clerks in the store. At some point while they're
11 giving money or the money is being removed, the gun is
12 placed on the counter at which point one of the victims
13 takes the gun, holds him at gunpoint and there is a --
14 probably a five to ten minute struggle throughout the
15 entire store out to the front of the store when eventually
16 police arrive. James is very clearly on video. I can
17 identify him on that video, especially there at the end
18 when they have basically been struggling. They've -- his
19 t-shirt had been ripped. I believe the thing that was
20 covering his face had been removed. Some of the evidence
21 in the other four cases did include some DNA. I cannot
22 remember specifically which one, but there was an armed
23 robbery at one of the convenience stores where when police
24 arrived and canine came through, they located a glove, a --
25 I believe a camouflage face covering of some sort and maybe

1 a sweatshirt. I believe DNA was pulled from those items,
2 that they did receive a CODIS hit for Mr. Trapp. The other
3 piece of evidence that the police relied on in the other
4 armed robberies was the very distinctive weapon that was
5 used. It was a revolving -- a revolver pistol with a pearl
6 handle grip. That was described at length by a lot of --
7 by all the witnesses, and that was the same weapon he was
8 caught with at the attempted armed robbery.

9 Q Were you ready to go to trial on this case?

10 A Yes.

11 Q Okay. And did you advise him to plead guilty?

12 A No. We were -- like I said, he was placed in an
13 impossible position and I was -- at that point I was
14 frustrated. I was of the opinion, if the State's going to
15 do this to you, you might as well fight it. Like I said, I
16 was in the middle of my motion to sever. I mentioned that
17 he was caught at one of the scenes, at which point Judge
18 Newman said, Ms. Eigenbrot, are you sure your client
19 doesn't want to plead; if he's caught at the scene, why is
20 this a trial? And I said, well, the State has put us in a
21 position where it's either LWOP at trial and fight it or
22 take essentially a life sentence for him. He is now
23 serving 45 years of 85 percent and he was in his late 20s
24 at the time. To me that's still a life sentence, but the
25 Judge at that point gave James an opportunity to speak to

1 his mother who was sitting behind us in the courtroom, and
2 we also had more time to talk. I told him I would stand by
3 him with whatever he decision he made. If he wanted to
4 fight, we were ready to fight; if he wanted to plead, that
5 was also his choice.

6 Q Was it his choice to plead guilty?

7 A It was.

8 Q Did you ever discuss with Mr. Trapp whether he could
9 appeal his guilty plea?

10 A Every time one of my clients chooses to plead guilty,
11 I go over a form with them essentially with all of their
12 rights to make sure they understand what all of their
13 rights are. Because James was pleading to violent
14 offenses, most serious offenses, I would've gone through
15 the long form which is approximately four pages full of
16 questions going over their constitutional rights along with
17 their right to appeal and to file a motion to reconsider.

18 Q Did he ask you to file a notice of appeal?

19 A I do not specifically recall him asking me to. I know
20 we would've discussed it. I do not -- I did not put in my
21 notes whether he asked after the plea was over, however, I
22 do not believe so.

23 Q So did you file a notice of appeal?

24 A I did not.

1 Q Did he ask you to file a motion to reconsider the
2 sentence?

3 A I do not believe he did.

4 Q Did you ever notice any issues with the indictments in
5 this case?

6 A No.

7 Q With the -- the offense dates?

8 A Did not.

9 Q Did he ever bring up that he was incarcerated when the
10 offenses occurred?

11 A I do not recall a conversation about that, no.

12 Q Did y'all ever talk about the chain of custody in the
13 case?

14 A No.

15 Q Did you see any issues with the chain of custody?

16 A Not off the top. No, he was -- like I mentioned, the
17 original DNA hit was a CODIS match. I didn't see any
18 issues. I don't believe I had a property report. That may
19 have been something we talked about as far as collecting of
20 the evidence and whatnot, but again, those were for cases
21 that we weren't going to trial on at that point in time.
22 Had we gone to trial, those would absolutely have been
23 something that I would've questioned.

24 Q Did you discuss with Mr. Trapp that he was only going
25 to trial on the two charges?

1 A Yes.

2 MR. KEY - Nothing further.

3 MR. WALLER - Thank you, Your Honor, briefly.

4 CROSS EXAMINATION

5 BY MR. WALLER -

6 Q Ms. Eigenbrot, -- and I apologize if I started
7 everybody saying your name incorrectly -- I believe you
8 testified a minute ago that you had not received a property
9 report and -- but that was in a different case. Is that
10 right?

11 A That's correct.

12 Q Was all the DNA testing and everything done?

13 A As far as I know it was. I know at some point the law
14 enforcement went to Lee Correctional to serve a search
15 warrant for his DNA at that time. They did take a swab.
16 And then again they filed a Schmerber. I believe it was
17 for the Dominos case that we were going to trial on, but I
18 don't believe any of the items they tested in the Dominos
19 case actually came back to his DNA.

20 Q Okay. Did you have reports from the -- whichever
21 agency did the testing?

22 A Yes.

23 Q Okay. Do you recall which agency it was?

24 A SLED.

25 Q Was it SLED or -- okay.

1 MR. WALLER - Beg the Court's indulgence, please.

2 (WHEREUPON, PAUSE IN RECORD)

3 Q When -- when was it determined which charges were
4 going to go to trial?

5 A I couldn't tell you when that determination was made.
6 I think with my experience in dealing Ms Campbell as a
7 prosecutor on a case, I assumed very early on that the one
8 we would go forward on was the attempted armed robbery. It
9 was later in discussing a trial date she indicated to me
10 that we would -- they would also be going forward on the
11 Dominos case.

12 Q Okay, so your motion to sever wasn't for all of the
13 incidents; it was just to sever the two that were scheduled
14 to go to trial.

15 A Correct. I also think I filed a Lyle motion as well
16 to discuss them not being able to go into the other armed
17 robberies for that -- that particular trial, but we never
18 got to that point.

19 Q Okay. Were there consistencies in all the incidents?

20 A The gun was the most consistent along with a general
21 description of a skinny, black male. Usually the face was
22 covered; there was usually something on his hands, but it -
23 - the descriptions varied from case to case.

24 Q Okay. And y'all were in Court arguing your motion to
25 sever and you said Judge Newman stopped y'all?

1 A That's correct. Part of my argument was essentially
2 that he was caught at the scene, there was no reason to
3 bring up the Dominos case, and when I advised the Court
4 that he had been caught at the scene, Judge Newman stopped
5 me.

6 Q Okay. How soon after that did Mr. Trapp enter his
7 plea?

8 A He was given -- I want to -- it was not too terribly
9 long. We didn't plead until the afternoon, but that was in
10 part because the solicitor's office took forever to get us
11 all the paperwork.

12 Q Okay. Saying -- in the meantime you said you went
13 over an advice of rights form?

14 A That's correct. Once the paperwork was provided, we
15 went over the advice of rights form but prior to that, we
16 were sitting in Court, and he was allowed to turn around
17 and speak to his mother and it was in the courtroom.

18 Q Okay. Did you enough discovery information about
19 other cases that weren't going forward that day to be able
20 to discuss them in full with Mr. Trapp?

21 A Yes. But admittedly I probably didn't discuss those
22 as much as I discussed the other two just simply because of
23 the situation in itself.

24 Q Okay.

1 MR. WALLER - I don't have anything further.

2 Thank you.

3 THE COURT - Anything further, Mr. Key?

4 MR. KEY - No, Your Honor.

5 THE COURT - Thank you, ma'am. You can step down.

6 Anything further from the State?

7 MR. KEY - No, Your Honor, the State would rest.

8 MR. WALLER - Judge, I just have a brief argument
9 and I -- before that -- and I apologize for making again
10 another motion to amend the application. I don't believe
11 there was anything in the application or amendments about
12 guilty or to -- notice of appeal. There was testimony from
13 both witnesses about a notice of appeal today. There was
14 no objection from the State, so I would make a motion to
15 amend the application to include an allegation of
16 ineffective assistance of counsel for failing to file a
17 motion -- or notice of appeal.

18 MR. KEY - We knew that that was one of the
19 allegations, ineffective assistance of counsel for failure
20 to file a notice of appeal, so there's no objection from
21 the State?

22 THE COURT - Okay, your motion's granted.

23 MR. WALLER - Thank you, Your Honor. And, Judge,
24 just briefly, Your Honor has the transcript as well as the
25 records through the clerk of court.

1 Judge, Mr. Trapp testified that he -- he wanted a
2 trial on four of the five case. Ms. Eigenbrot testified
3 that she did not advise him to plead guilty, that she was -
4 - was ready to proceed and she was -- that she believed he
5 was being treated unfairly. Your Honor, I think he was put
6 in a situation where he didn't -- not have a choice. I
7 think it's pretty clear from his testimony to her is that
8 there is -- there was a disconnect somewhere. He believed
9 he was there to start a trial for everything, and clearly
10 that -- that's not the case; that's not what the transcript
11 says; it's not what Ms. Eigenbrot testified to, but clearly
12 there was a -- a knowing -- you know, an issue with the
13 knowing and voluntariness of his plea, and so I certainly
14 think that it was an involuntary plea. He did testify and
15 I think it was pretty clear that he wanted to -- to go
16 forward and challenge and at least the majority of his case
17 and that there were issues he had with -- that there were
18 issues with the State's case that they would've been
19 challenged had they gone to trial.

20 THE COURT - But isn't it true that they went
21 forward on the -- on the most -- the strongest case for the
22 State, in other words, the one where he was apprehended at
23 the scene? He was going to get life without the
24 possibility of parole even if all the four cases were

1. terrible cases. As long as one was good, he was getting a
2. life sentence.

3. MR. WALLER - I -- that is correct, Your Honor. I
4. do believe his exposure if he was convicted of the
5. attempted armed robbery, he would be subject to life
6. without parole. I don't think there was -- I don't think
7. there's any way around -- around it.

8. Your Honor, the other issue that I would just
9. like to point out briefly is Mr. Trapp asked -- testified
10. that he asked Ms. Eigenbrot to file a notice of appeal for
11. him. She testified that she was unclear whether he'd asked
12. that or not, but she didn't file one, so I would just ask
13. you to consider that.

14. THE COURT - Mr. Key, do you want me to hear from
15. you, sir?

16. MR. KEY - No, Your Honor.

17. THE COURT - Thank you. I will take it under
18. advisement.

19. MR. WALLER - Thank you, Your Honor.

20. (END OF TRANSCRIPT)

21.

22.

23.

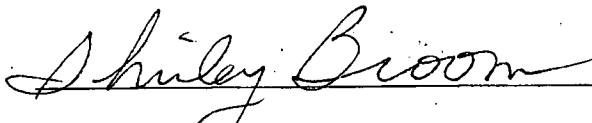
24.

25.

C E R T I F I C A T E

I, Shirley Broom, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing 41 pages is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the proceedings of James Lamar Trapp vs. State of South Carolina, as taken by me in The Court of Common Pleas for the Fifth Judicial Circuit on February 21, 2019 and provided by me this the 19th day of June, 2019.

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



Shirley Broom, CVR-M
Official Court Reporter,
Certified Verbatim Reporter, In and
for the State of South Carolina

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT

James Lamar Trapp, # 347026,)

2018-CP-40-0321

Applicant,)

ORDER OF DISMISSAL

v.)

State of South Carolina,)

Respondent.)

RICHLAND COUNTY
 FILED
 2019 MAY 13 AM 10:37
 JEANETTE W. MCBRIDE
 C.C.P. & G.S.

The matter before the Court is an action for post-conviction relief (PCR). James Lamar Trapp (Applicant) commenced this PCR action January 17, 2018. Applicant alleged ineffective assistance of counsel and attacked the knowing and voluntary nature of his guilty plea.

The Court held an evidentiary hearing February 19, 2019, at the Richland County Courthouse before the undersigned. Applicant was present and represented by Jonathan Waller. Assistant Attorney General Samuel Key represented the State. For the reasons discussed below, the Court finds Applicant's allegations are without merit and concludes plea counsel was not ineffective. Therefore, the Court denies relief and dismisses the action with prejudice.

FACTS & PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. During its December 2015 term, the Richland County Grand Jury indicted Applicant for two counts of armed robbery (2015-GS-40-6523, -6526), two counts of kidnapping (2015-GS-40-6526, -6520), and one count of attempted armed robbery (2015-GS-40-6520). During its February 2017 term, the Richland County Grand Jury indicted Applicant for two counts of kidnapping (2017-GS-40-0503, -0506), and two counts of

armed robbery (2017-GS-40-0504, -0508).

On March 14, 2017, the State served Applicant with notice of intent to seek life without parole (LWOP) based on his prior convictions pursuant to section 17-25-45 of the South Carolina Code.

Applicant was represented by Assistant Public Defender Megan Eigenbrot. Assistant Solicitor K. Luck Campbell prosecuted the case. On April 10, 2017, Applicant appeared before the Honorable Clifton Newman for pre-trial motions; however, following a colloquy with the court, Applicant indicated he wished to waive his right to a trial and plead guilty. Applicant subsequently pled guilty to four counts of armed robbery, four counts of kidnapping, and one count of attempted armed robbery with a negotiated sentencing range of forty-five to fifty years. The plea court accepted Applicant's plea and sentenced Applicant to an aggregate forty-five years imprisonment. Applicant did not appeal his convictions or sentences. Applicant commenced this PCR action January 17, 2018.

A PCR evidentiary hearing convened February 19, 2019, at the Richland County Courthouse. At the PCR hearing, Applicant was present and represented by Jonathan Waller. Assistant Attorney General Samuel Key represented the State.

ISSUES RAISED

In his application for post-conviction relief, Applicant alleged he is in custody unlawfully due to ineffective assistance of counsel. Specifically, Applicant attacked the knowing and voluntary nature of his guilty plea, alleging plea counsel was ineffective for:

1. Failure to advise / file a direct appeal;
2. Failure to move for sentence reconsideration;
3. Failure to ensure Applicant received a mental health exam prior to his plea;
4. Failure to investigate the facts and circumstances surrounding Applicant's prior criminal record; and

5. Providing erroneous advice based on incomplete information.

PCR TESTIMONY

Applicant's Testimony

Applicant testified on his own behalf at the PCR hearing. Applicant stated he faced five different indictments, and plea counsel represented him on all charges. Applicant stated in those five indictments, he faced: four counts of armed robbery; four counts of kidnapping; one count attempted armed robbery; and four weapons charges. Applicant wanted to plead guilty to the attempted armed robbery charge; however, he wanted a trial on his other charges. Applicant stated he wanted to plead guilty to attempted armed robbery because he was arrested at the scene of the crime. Applicant stated law enforcement never questioned him regarding the other crimes; rather, law enforcement just served him with warrants. Applicant stated he discussed his case with plea counsel.

Applicant recalled plea counsel explaining to him the State was trying to charge him with everything. Applicant stated a witness allegedly identified him from a line up as connected to one of the other charges; however, Applicant could not recall whether he and plea counsel discussed the identification issue as it related to one of the other charges. Further, Applicant stated he discovered—after he pled—the crime that he was identified as committing was committed by someone wearing a full face-mask. Applicant stated he and plea counsel never discussed how he could be identified when the perpetrator was wearing a face-mask.

Applicant stated he could not have committed the December 2015 charges because he was incarcerated when the crimes allegedly occurred. Applicant stated he and plea counsel never discussed this issue; however, he stated he never brought this to plea counsel's attention. Applicant stated that when he and plea counsel discussed the evidence against him, plea counsel told him the State's case against him was strong.

Applicant recalled the State serving him with LWOP notice a month before he pled guilty. Applicant stated he and plea counsel discussed the meaning and consequences of LWOP, and that the State was going to try him for attempted armed robbery and one count of armed robbery. He stated the armed robbery charge the State was proceeding on occurred the same day as the attempted armed robbery. Applicant stated plea counsel advised him he was exposed to LWOP if he was convicted at trial of any of the charges against him, even the attempted armed robbery—the charge he wanted to plead guilty to. Applicant stated he reiterated his desire to plead guilty to attempted armed robbery, but go to trial on the other charges; however, plea counsel explained to him that was not an option.

Applicant stated plea counsel informed him of a surveillance video of one of the other crimes; however, he never viewed the video because he felt he was innocent—except for the one attempted armed robbery. Applicant recalled discussing possible defenses to the crimes. He recalled plea counsel discussing a DNA hearing. Applicant stated plea counsel came to see him following the DNA hearing and told him she did not understand why the State was charging him for the other crimes because there were no fingerprints on the gun.

Applicant stated he previously pled guilty in 2011, with different counsel, to four counts of attempted armed robbery. He stated he and plea counsel discussed his priors, and plea counsel advised him his priors counted as one strike against him because he pled to the charges on the same day.

Applicant stated he pled guilty with a negotiated sentencing range of forty-five to fifty-years' imprisonment. Originally, the State wanted him to plead to all charges; however, plea counsel was able to get the weapons charges dropped in exchange for his plea. Applicant stated he pled guilty

because he would get life if convicted at trial. Applicant stated he decided to plead guilty after speaking to plea counsel and realizing he could not plead to just the attempted armed robbery.

Applicant stated he and plea counsel discussed filing a motion to reconsider his sentence, and he asked plea counsel to file the motion. Applicant recalled plea counsel advising him he had ten days to file an appeal, and he asked plea counsel to file an appeal.

Plea Counsel's Testimony

Plea counsel testified for the State at the PCR hearing. Plea counsel was appointed to represent Applicant, and she is employed by the Public Defender's Office. Plea counsel stated Applicant's defense file was opened July 10, 2015, a week after his arrest. Plea counsel's notes indicated she met with Applicant twelve times over the course of her representation. Plea counsel stated she received all discovery in Applicant's case, and reviewed as much of the discovery as she could with Applicant. However, Applicant did not want to view one surveillance video in particular, but he was aware of the video. Plea counsel recalled prepping for trial on two charges—attempted armed robbery and armed robbery. Plea counsel stated the State had timely served Applicant with LWOP notice and she explained its meaning. Plea counsel stated she explained he was served with LWOP notice because of his prior record, and she explained if he was convicted at trial the trial court would have no discretion at sentencing. Plea counsel stated she advised Applicant he would be sentenced to LWOP if convicted at trial of attempted armed robbery, the charge he wanted to plead guilty to. However, plea counsel advised Applicant he could not plead to only attempted armed robbery because, at that point, the only offer the State had made was a plea to all charges with a sixty-year negotiated sentence. Plea counsel stated she advised Applicant of the offer to plead to all charges with a sixty year negotiated sentence when it was made, and Applicant rejected the offer.

After Applicant rejected the State's original offer, plea counsel countered the State's offer with a negotiated twenty to thirty year sentencing range. However, the State refused to entertain that offer. Thereafter, plea counsel requested the State remove its intent to seek LWOP. The State refused.

Plea counsel stated the State was proceeding to trial on two indictments containing three charges—attempted armed robbery, armed robbery, and kidnapping. Plea counsel stated she moved to sever the indictments based on the circumstances. Plea counsel stated she was in the midst of presenting her motion to sever the indictments when the court interjected—the court asked if plea counsel was sure Applicant did not want to plead guilty. Plea counsel stated there was a break in the proceedings, at which point Applicant indicated he wished to plead guilty.

Plea counsel indicated at this juncture, the State made a plea offer of a negotiated sentencing range of an aggregate term of forty-five to fifty years imprisonment. Plea counsel stated that she did not feel like this plea offer was fair; however, she also indicated this type of offer was typical of how the particular assistant solicitor operated. Plea counsel stated she explained the offer and his situation to Applicant on multiple occasions, and he knew what was going on.

Plea counsel explained the State was focusing on the attempted armed robbery because of the circumstances. Applicant was caught on video entering the store, and brandishing a handgun. The video also showed Applicant placing the gun on the counter, victim obtaining the gun, and holding Applicant at gunpoint. The video also showed a brief struggle, and the police arriving. Plea counsel stated it was clearly Applicant on the video because his face covering had been removed in the struggle. Plea counsel stated the evidence against Applicant in other cases was some DNA in a glove and face covering located outside a different store implicated Applicant. Plea counsel stated the main link between Applicant and the other crimes was he used a distinctive weapon. Witnesses of

the other crimes described at length the weapon used as a revolver with a pearl handle grip. Applicant was caught with a distinct revolver with a pear handle grip at the botched attempted armed robbery.

Plea counsel stated she was prepared for trial and advised Applicant against pleading guilty pursuant to the State's offer. Plea counsel explained she advised against pleading guilty with the State's offer because the offer was essentially a life sentence. She stated she told Applicant that if they went to trial, there was at least a possibility he would not be imprisoned the rest of his life. Plea counsel testified the court gave Applicant a chance to speak to his mother, and gave plea counsel and Applicant more time to talk. Plea counsel told Applicant she would stand by him with whatever decision he made, and he chose to plead guilty.

Plea counsel stated that every time she does a plea, she goes over a form to make sure her client understands their rights. She stated the form is approximately four pages going over rights including the right to appeal and the right to file a motion to reconsider. Plea counsel could not recall whether Applicant asked her to file an appeal, and she does not believe he did ask her to file an appeal. Plea counsel stated she did not file an appeal for Applicant, and she did not believe he asked her to file a motion for reconsideration.

Plea counsel did not notice any issues with the indictments and alleged offense dates, and she did not recall ever discussing issues with the dates and Applicant being incarcerated during that period of time. Plea counsel stated she did not recall discussing chain of custody because she did not see any issues with the chain. Plea counsel did recall advising Applicant he was only going to trial on the two charges. Plea counsel stated she had enough info to discuss the other cases with Applicant, but she probably did not talk to him about those cases as much given the circumstance.

DISCUSSION

The issue before the Court is whether Applicant's guilty plea was the result of ineffective assistance of counsel. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984); *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985).

The test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." *North Carolina v. Alford*, 400 U.S. 25, 31 (1970). "[A] defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). To prove prejudice, the applicant must show a reasonable probability he would not have pled guilty and would have insisted on going to trial absent plea counsel's alleged deficiency. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

1. Failure to Advise / File a Direct Appeal

Applicant alleges plea counsel was ineffective for failing to advise him of his right to file a direct appeal. Applicant simultaneously alleges plea counsel was ineffective for failing to file a direct appeal on Applicant's behalf. The Court disagrees.

Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either: (1) that a rational defendant would want to appeal; or (2) that

this particular defendant reasonably demonstrated to counsel that he was interested in appealing. *Roe v. Flores-Ortega*, 528 U.S. 470 (2000).

Applicant alleges plea counsel failed to advise him of his right to a direct appeal. As mentioned above, plea counsel testified at the PCR hearing that every time she does a guilty plea, she goes through an advice of rights form to ensure her clients understand their rights. Plea counsel noted the right to appeal is within the advice of rights form. Plea counsel stated she advised Applicant of his right to file an appeal. The Court finds plea counsel's testimony she advised Applicant about his right to appeal credible. Further, even if counsel had failed to advise Applicant of his right to appeal, Applicant was at least aware of his right to appeal. Applicant's awareness of his right to appeal is evinced by Applicant's claim he allegedly asked plea counsel to file an appeal the day of his guilty plea. Applicant cannot claim he was unaware of his right to appeal, while alternatively claiming he advised plea counsel to file an appeal. Applicant's logic strains credulity. Therefore, the Court finds Applicant's claim plea counsel failed to advise him of his right to appeal his guilty plea to be without merit. This finding is based upon plea counsel's credible testimony she advised Applicant of his right to appeal.

Because the Court finds plea counsel advised Applicant of his right to appeal his guilty plea, the next issue the Court must decide is whether plea counsel was ineffective for failing to file an appeal. Applicant alleges plea counsel was ineffective for failing to file an appeal after he requested plea counsel do so. The Court disagrees.

If the defendant wishes to appeal, counsel must serve and file a Notice of Appeal pursuant to Rule 203, SCACR. *In re Anonymous Member of the Bar*, 303 S.C. 306, 307, 400 S.E.2d 483, 483 (1991); see also *White v. State*, 263 S.C. 110, 118, 208 S.E.2d 35, 39 (1974) (stating in the absence of an intelligent waiver by the defendant, counsel should pursue an appeal on the defendant's behalf).

As mentioned above, Applicant claimed he requested plea counsel to file an appeal on his behalf. Plea counsel testified she had no recollection of Applicant asking her to file a direct appeal. However, plea counsel stated she did not believe Applicant asked her to file an appeal because if he had so requested, she would have filed an appeal. The Court believes plea counsel.

The Court finds plea counsel was not deficient for failing to file an appeal because Applicant knowingly waived his right to appeal. As stated above, Applicant cannot claim he was unaware of his right to appeal his guilty plea, while also claiming he affirmatively advised plea counsel to file an appeal. The Court finds Applicant did not request plea counsel to file an appeal of his guilty plea. This finding is based on plea counsel's credible testimony that she would have filed an appeal for Applicant if he requested her to do so. Applicant's failure to make such request, coupled with Applicant's decision to plead guilty *against* plea counsel's advice, shows Applicant intelligently waived his right to appeal his guilty plea.

The Court finds plea counsel was not deficient because plea counsel advised Applicant of his right to file an appeal. The Court further finds Applicant intelligently waived his right to appeal; therefore, plea counsel was not deficient for failing to file an appeal. Applicant cannot show he was prejudiced by plea counsel allegedly failing to advise him of his right to appeal because Applicant stated he knew of his right to appeal. Plea counsel was not ineffective on either alleged ground. Therefore, the Court denies relief and dismisses these allegations with prejudice.

2. Failure to Move for Sentence Reconsideration

Applicant alleges plea counsel was ineffective for failure to move for reconsideration of his sentence. The Court disagrees.

First, the Court finds Applicant's testimony—he requested plea counsel to move to reconsider his sentence—not credible. Therefore, plea counsel is not deficient for failing to so move.

Second, Applicant failed to show any prejudice resulting from plea counsel's alleged deficiency of failing to request the plea court to reconsider Applicant's sentence because the plea court already sentenced Applicant to the minimum sentence allowed by the negotiated range Applicant agreed to. Applicant knowingly and voluntarily pled guilty with an aggregate negotiated sentencing range of forty-five to fifty-years' imprisonment. The plea court sentenced Applicant to an aggregate forty-five years' imprisonment. Even if plea counsel had filed a motion to reconsider, the plea court was still bound by the negotiated sentencing range, which Applicant testified he pled to to avoid LWOP. Applicant simply could not receive a lesser sentence than he received in reconsideration; therefore, plea counsel was not ineffective for failing to move for reconsideration of Applicant's sentence. The Court denies relief and dismisses the allegation with prejudice.

3. Failure to Ensure Applicant Received a Mental Health Evaluation

At the outset of the PCR hearing, Applicant—through PCR counsel—waived this allegation. The Court finds Applicant validly waived this allegation and abandoned the issue by presenting no evidence in support of the allegation. Therefore, the Court denies relief and dismisses the allegation with prejudice.

4. Failure to Investigate Applicant's Prior Criminal Record

Applicant alleged in his PCR application plea counsel was ineffective for failing to investigate Applicant's prior criminal record. Specifically, Applicant claimed he was incarcerated during the time the December 2015 indictments alleged he committed those crimes. Applicant claims had plea counsel thoroughly investigated his criminal history, she would have noticed the date discrepancy. Further, if plea counsel had noticed the discrepancy, she could have brought this information to the State and had the charges against him dismissed. The Court finds these allegations are without merit.

The test for determining the validity of a guilty plea is “whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.” *Alford*, 400 U.S. at 31.

The Court finds plea counsel was not deficient for failing to investigate Applicant’s prior criminal record. Plea counsel stated she went over all the charges with Applicant. Applicant recalled plea counsel going over the charges with Applicant, but admitted he never notified plea counsel of the date discrepancy. The Court finds plea counsel was not deficient. It is reasonable for plea counsel to assume Applicant would draw her attention to a discrepancy—if he was in jail when the incidents occurred—when plea counsel was explaining the charges against him. Further, Applicant has provided nothing more than his self serving testimony indicating he was actually incarcerated at the time the December 2015 incidents occurred. This Court will not rely solely on Applicant’s highly suspect uncorroborated testimony to find plea counsel deficient. If Applicant was in jail during the alleged time period, he should have brought this to plea counsel’s attention. The Court finds plea counsel reasonably investigated Applicant’s prior criminal history.

Nethertheless, Applicant also failed to show he was prejudiced by plea counsel’s alleged deficiency. Applicant admitted at the PCR hearing he wanted to plead guilty to attempted armed robbery because he committed the crime. Applicant also admitted he knew he would be sentenced to LWOP if convicted of only the attempted armed robbery charge at trial. Applicant testified he pled guilty to avoid LWOP. This Court finds Applicant knowingly and voluntarily pled guilty to the charges against him to avoid being sentenced to LWOP.

Plea counsel was not deficient for failing to investigate Applicant’s prior criminal record, and Applicant was not prejudiced by plea counsel’s alleged deficiency. Therefore, the Court concludes

plea counsel was not ineffective for failure to investigate Applicant's prior criminal record. The Court denies relief and dismisses this allegation with prejudice.

5. Providing Erroneous Advice based on Incomplete Information

Applicant alleges plea counsel was ineffective for providing erroneous advice based on incomplete information. The Court disagrees.

Section 17-25-45 of the South Carolina Code provides in pertinent part:

[U]pon a conviction for a most serious offense . . . a person *must* be sentenced to a term of imprisonment for life without the possibility of parole if that person has . . . one or more prior convictions for . . . a most serious offense.

S.C. Code Ann. §§ 17-25-45 (A)(1)(a) (emphasis added). Subsection 17-25-45(C) of the South Carolina Code categorizes attempted armed robbery as a most serious offense.

Applicant admitted at the PCR hearing that he previously pled guilty to four counts of attempted armed robbery. Attempted armed robbery is considered a most serious offense. Applicant also admitted he knew he would receive LWOP if he was convicted at trial of any of the charges against him because of his prior record. Applicant's understanding was correct. As mentioned above, Applicant stated he pled guilty to avoid LWOP exposure. The Court finds Applicant was fully aware of the circumstances surrounding his guilty plea—either go to trial and be exposed to LWOP, or accept the State's plea offer of a negotiated sentencing range of forty-five to fifty-years' imprisonment. Applicant, through his own previous decisions, faced the proverbial choice between a rock and a hard place. However, he knowingly made his decision. The Court finds plea counsel was not deficient in advising Applicant of his difficult choices. The Court concludes Applicant was not prejudiced by the alleged deficiency because he knew his choices, and decided to

plead guilty rather than be exposed to LWOP. Therefore, the Court finds plea counsel was not ineffective. The Court denies relief on this allegation and dismisses the allegation 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 relief. The Court finds plea counsel's representation was neither deficient nor prejudicial. The Court finds Applicant knew the meaning and consequences of pleading guilty to the charges against him and was fully aware of the meaning of the negotiated sentencing range. The Court further finds Applicant voluntarily pled guilty. His voluntariness is evinced by the plea transcript and testimony given at the PCR hearing.

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

THEREFORE:

1. The Court denies relief and dismisses the action with prejudice; and
2. Applicant shall be remanded to the custody of the State.

AND IT IS SO ORDERED.Kristi F. Curtis

KRISTI F. CURTIS
Presiding Judge
Fifth Judicial Circuit

May 7, 2019.Sunder

, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: **2018CP4000321**

James Lamar Trapp#347026

State Of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 13 May 2019 to attorneys of record or to parties (when appearing pro se) as follows:

James Lamar Trapp#347026

Jonathan D Waller

Lindsey Ann McCallister

James Lamar Trapp#347026

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Jeanette W. McBride

WITNESSES

(S) William Gonzalez

- Richland County Sheriff Dept

ARREST WARRANT NUMBER

2015A4011200309

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: FEB 16 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS4000503

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2017

42

THE STATE
vs.

James Lamar Trapp

Indictment for
KIDNAPPING / KIDNAPPINGSC Code: 16-03-0910
CDR Code: 0095After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA

COUNTY OF Richland
 STATE VS.
James Lamar Trapp

AKA:
 Race: BLACK Sex: M Age: 28
 DOB: [REDACTED] SS#: [REDACTED]
 Address:
 City, State, Zip:
 DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was
 TO: Kidnapping / Kidnapping

IN THE COURT OF GENERAL SESSIONS OF THE

INDICTMENT/CASE#: 2017-GS-40-00503A/W#: 2015A4011200309Date of Offense: 6/23/2015S.C. Code §: 16-03-0910CDR Code #: 0095

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST [Signature] 1300 [Signature] 10/19/17
Campbell, Lusk SC Bar# [REDACTED] Defendant Attorney for Defendant SC Bar# [REDACTED]

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 15 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. 6089 days credit

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

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

TOTAL \$ _____

PTUP _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
 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.

Clerk of Court/ Deputy Clerk

Court Reporter: [Signature]

SCCA/217 (07/2016)

Presiding Judge

Judge Code: 2107Sentence Date: April 10, 2017

30 RICHLAND COUNTY
8/14/17
CERTIFIED TRUE COPY
OF ORIGINAL
FILED
13

WITNESSES

(S) William Gonzalez

Richland County Sheriff Dept

ARREST WARRANT NUMBER

2015A4011200310

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: **FEB 16 2017**

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017GS4000504

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2017

42

THE STATE

vs.

James Lamar Trapp

**Indictment for
ROBBERY / ARMED ROBBERY, ROBBERY
WHILE ARMED OR ALLEGEDLY ARMED
WITH A DEADLY WEAPON**

SC Code: 16-11-0330(A)

CDR Code: 0139

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on February 15, 2017,
the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That James Lamar Trapp did in Richland County on or about June 23, 2015, commit robbery by feloniously taking from the person or presence of Kristina Turner, by means of force or intimidation, goods or monies of Pantry Express, such goods or monies being described as U.S. currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he or she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of §16-11-330(A), SC 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.



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Richland
STATE VS.

James Lamar Trapp

AKA: _____

Race: BLACK Sex: M Age: 28

DOB: [REDACTED] SS#: [REDACTED]

Address: _____

City, State, Zip: _____

DL#: [REDACTED] SID#: _____

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

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

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

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

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

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

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

ATTEST: [Signature] 1300 [Signature] 10/19/0
Campbell, Duck SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 1089 days credit

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

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

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

TOTAL \$ _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-40-00504

A/W#: 2015A4011200310

Date of Offense: 6/23/2015

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

Presiding Judge

Judge Code: 2121

Sentence Date: April 10, 2017

Clerk of Court/ Deputy Clerk

Court Reporter: Norma

SCCA/217 (07/2016)

WITNESSES

(S) William Gonzalez

Richland County Sheriff Dept

ARREST WARRANT NUMBER

2015A4011200312

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: FEB 18 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS4000506

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2017

42

THE STATE
vs.

James Lamar Trapp

Indictment for
KIDNAPPING / KIDNAPPING

SC Code: 16-03-0910
CDR Code: 0095

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

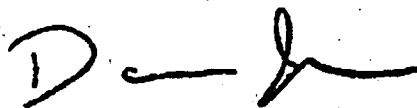
INDICTMENT

At a Court of General Sessions, convened on February 15, 2017,
the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That James Lamar Trapp did in Richland County on or about June 23, 2015, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one MANDEEH SINGH, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

James Lamar Trapp

AKA:

Race: BLACK Sex: M Age: 28

DOB:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-40-00506

A/W#: 2015A4011200312

Date of Offense: 6/23/2015

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Campbell, Luck

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 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 formonths/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: 2015-GS-40-D-523
☒ 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. (689 days credit)☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

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

TOTAL

\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

PTUP

days/hours Public Service Employment

Obtain GED ☐Attend Voc. Rehab. or Job Corp. ☐

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
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.

Presiding Judge

Judge Code:

Sentence Date:

2127

April 10, 2017

WITNESSES**(S) William Gonzalez****- Richland County Sheriff Dept****ARREST WARRANT NUMBER****2015A4011200314****ACTION OF GRAND JURY****TRUE BILL****Foreperson of Grand Jury****Date: FEB 16 2017****VERDICT****Foreperson of Petit Jury****Date:****DOCKET NO. 2017GS4000508****The State of South Carolina****County of****Richland****COURT OF GENERAL SESSIONS****FEBRUARY TERM 2017****42****THE STATE****vs.****James Lamar Trapp**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

**Indictment for
ROBBERY / ARMED ROBBERY, ROBBERY
WHILE ARMED OR ALLEGEDLY ARMED
WITH A DEADLY WEAPON**

SC Code: 16-11-0330(A)

CDR Code: 0139

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on February 15, 2017,
the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That James Lamar Trapp did in Richland County on or about June 23, 2015, commit robbery by feloniously taking from the person or presence of Mandeeh Singh, by means of force or intimidation, goods or monies of Citgo, such goods or monies being described as U.S. currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he or she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of §16-11-330(A), SC 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.



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Richland
STATE VS.
James Lamar Trapp

AKA:

Race: BLACK Sex: M Age: 28DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Columbia, SC 29223DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weaponin violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

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

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Campbell, LuckSC Bar# [REDACTED]Defendant [REDACTED]Attorney for Defendant [REDACTED]SC Bar# 101190WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; 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. (689 days credit)☐ 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 ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$ § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ § 56-5-2995 (DUI Assessment) \$12 \$ § 56-1-286 (DUI Breath Test) \$25 \$ Proviso 61.6 (Public Def/Probation) \$500 \$ § 14-1-212 (Law Enforce. Funding) \$25 \$ § 14-1-213 (Drug Court Surcharge) \$150 \$ § 50-21-114 (BUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 3% to County (if paid in installments) \$ TOTAL: \$ Clerk of Court, Deputy Clerk Jeanette W. McBriderCourt Reporter [REDACTED]

SCCA 217-100/2016

SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS4000508A/W#: 2015A4011200314Date of Offense: 6/23/2015S.C. Code §: 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

PTUP

 days/hours Public Service EmploymentObtain 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 FundOther:

☐ 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.

Presiding Judge [REDACTED]Judge Code: 2127Sentence Date: April 10, 2017

WITNESSES

(S) John Carwell JR
- Richland County Sheriff

ARREST WARRANT NUMBER

2015A4010600693

ACTION OF GRAND JURY

TRUE BILL

Devin Gardner
Foreperson of Grand Jury
Date: **DEC 15 2015**

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015GS4006526

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2015

42

**THE STATE
vs.**

James Lamar Trapp

**Indictment for
ROBBERY / ARMED ROBBERY, ROBBERY
WHILE ARMED OR ALLEGEDLY ARMED
WITH A DEADLY WEAPON**

SC Code: 16-11-0330(A)
CDR Code: 0139

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on December ¹⁵, 2015,
the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That James Lamar Trapp did in Richland County on or about June 26, 2015, commit robbery by feloniously taking from the person or presence of Mineshkumar Patel, by means of force or intimidation, goods or monies of Exxon, such goods or monies being described as U.S. currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he or she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of §16-11-330(A), SC 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.


DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

James Lamar Trapp

AKA:

Race: BLACK Sex: M Age: 28

DOB: SS#

Address:

City, State, Zip:

DL#: SID#

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

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

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

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

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Campbell, Luck 13009 SC Bar# X James Trapp Defendant Attorney for Defendant 101190 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. (689 days credit)☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

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

TOTAL

\$

Clerk of Court/ Deputy Clerk

Court Reporter: Holmes

SCCA217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015-GS-40-06526 ✓

A/W#: 2015A4010600693

Date of Offense: 6/26/2015

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

☐ 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 ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Campbell, Luck 13009 SC Bar# X James Trapp Defendant Attorney for Defendant 101190 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. (689 days credit)☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

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

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

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

TOTAL

\$

Clerk of Court/ Deputy Clerk

Court Reporter: Holmes

SCCA217 (07/2016)

Presiding Judge

Judge Code: 9127

Sentence Date: April 10, 2017