

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Lancaster County

Honorable Paul M. Burch, Circuit Court Judge

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JAN 14 2020

S.C. SUPREME COURT

LONNIE E. PATTERSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2019-000890

APPENDIX

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1 STATE OF SOUTH CAROLINA } COURT OF GENERAL SESSIONS
2 COUNTY OF LANCASTER }

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5 PLAINTIFF,) OF
6 VS.) RECORD
7 LONNIE EUGENE MAURICE PATTERSON,) 2015-GS-29-1291 - 1293
8 DEFENDANT.)

9
10 October 16th, 2017
11 Winnsboro, South Carolina
12

13 B E F O R E:

14 THE HONORABLE DANIEL D. HALL, Judge.

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

16 RANDY NEWMAN and CASSITY BREWER
17 SOLICITOR and ASSISTANT SOLICITOR
18 Attorneys for the State

19 RYAN PAYNE
20 PUBLIC DEFENDER
21 Attorney for the Defendant

22
23 PAMELA E. GREEN
24 Circuit Court Reporter
25 Seventh Judicial Circuit

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INDEX OF WITNESSES

(WHEREUPON, there were no exhibits marked during this hearing.)

1 P R O C E E D I N G S

2
3 THE COURT: All right. Solicitor, call your case.

4 SOLICITOR NEWMAN: Thank you, Your Honor.

5 State calls Lonnie Gene Patterson.

6 (WHEREUPON, the Defendant was placed under oath at this
7 time.)

8 SOLICITOR NEWMAN: And may it please the Court.

9 Your Honor, standing before you is Lonnie Gene
10 Patterson represented by Attorney Ryan Payne.

11 He is here on Case Number 2015-GS-29-1293, Felony
12 Driving Under the Influence Causing Death.

13 2015-GS-29-1292, Felony Driving Under the Influence
14 Causing Great Bodily Injury.

15 2015-GS-29-1291, child endangerment.

16 Your Honor, these three indictments, as you may of
17 noticed, are from Lancaster County. He is waiving venue
18 today, and has agreed to enter guilty pleas to these three
19 charges.

20 Your Honor, this is a straight up plea. No
21 recommendation from the State. He will be exposed to 52.5
22 years as a result of this plea.

23 THE COURT: All right. Now, tell me how that breaks
24 down.

25 Felony DUI is one year to what?

1 SOLICITOR NEWMAN: One to 25 for the death.

2 THE COURT: And the bodily injury?

3 SOLICITOR NEWMAN: Bodily injury is 30 days to 15
4 years, and the child endangerment is up to half of the
5 maximum penalty for whichever the maximum is, which, in this
6 case, will be the death.

7 THE COURT: All right.

8 SOLICITOR NEWMAN: And I'll pass up the original
9 indictments and the sentencing sheets. And, Your Honor,
10 Cassity Brewer will give you the facts of the case.

11 THE COURT: All right. All right. Mr. Payne, you
12 represent Mr. Patterson on these three charges?

13 MR. PAYNE: I do, Your Honor.

14 THE COURT: How has he indicated he wishes to plead?

15 MR. PAYNE: He wishes to plead guilty, Your Honor.

16 THE COURT: Mr. Patterson, how old are you?

17 THE DEFENDANT: Thirty-six.

18 THE COURT: How far did you go in school?

19 THE DEFENDANT: Twelfth grade.

20 THE COURT: Have you ever been treated for any mental
21 or emotional disability?

22 THE DEFENDANT: No, sir.

23 THE COURT: You understand what you're doing here
24 today?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Mr. Patterson, I have three indictments
2 before the Court. I need to go over each one of those with
3 you and make sure you understand your rights.

4 Your lawyer has indicated, and I have met with your
5 lawyer and the Solicitors back in my office in what we call
6 chambers, and discussed this case a little bit. So, I'm
7 aware of some of the circumstances, but we'll talk about
8 those in detail here in just, in just a moment.

9 I have Indictment 2015-GS-29-1293. That is a true bill
10 indictment. This is from Lancaster County. All three of
11 these indictments are true bill indictments from Lancaster
12 County.

13 You understand that you, first, that you have a right
14 for this to be heard in Lancaster County. Nobody can force
15 you or require you to take care of this case or plead today
16 in Fairfield County even though this is all part of the
17 Sixth Circuit. It's been presented to the Court that you're
18 giving up and waiving a requirement that this be held in
19 Lancaster County, and you want it to go forward today in, in
20 Winnsboro here in Fairfield County.

21 Is that correct?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Your lawyer's also indicated to the Court
24 that you intend to enter a plea of guilt on each one of
25 those.

1 Is that correct?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Indictment 2015-GS-29-1293 is an indictment
4 that alleges, here in Lancaster County on or about
5 August 13th of 2015, you were driving a motor vehicle
6 while under the influence of alcohol, drugs, or a
7 combination of both, and you did an act forbidden by law,
8 and/or you neglected a duty imposed under the law to which
9 you drove to the left side of the roadway, struck a utility
10 pole and a tree, and that act or negligence negligently or
11 that act and/or the neglect proximately caused the death
12 of---

13 THE DEFENDANT: My son.

14 THE COURT: ---a five year old child.

15 Is that correct?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: How do you plead to that charge?

18 THE DEFENDANT: Guilty.

19 THE COURT: Indictment 2015-GS-29-1292 alleges that, on
20 or about August the 13th, 2015, while you're driving a motor
21 vehicle in Lancaster County under the influence of alcohol,
22 drugs, or a combination of both, same facts, same
23 circumstances, that, when you struck the utility pole and
24 the tree, that it caused great bodily injury to another one
25 of your children that was a minor at the time.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: If you get -- the Felony DUI with Death
3 carries up to 25 years in prison. That was the other
4 indictment. This indictment, with great bodily -- Felony
5 DUI with great bodily injury carries up to 15 years in
6 prison.

7 How do you plead to this charge?

8 THE DEFENDANT: Guilty.

9 THE COURT: Then, lastly, Indictment 2015-GS-29-1291,
10 it's an indictment for child endangerment. That indictment
11 alleges that, in Lancaster County, on or about August the
12 13th of 2015, you violated the Code of Laws in South
13 Carolina with -- by committing the offenses of Felony DUI
14 with bodily injury, great bodily injury, and Felony DUI by
15 death, and you did have one or more passengers under the age
16 of 16 in the motor vehicle. That was two of your children.
17 They were under 16. That carries up to one-half of the
18 maximum penalty that you could receive on the most serious
19 offense, the Felony DUI. And so that would carry a penalty
20 of 12 and one-half years.

21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: How do you plead to that charge?

24 THE DEFENDANT: Guilty.

25 THE COURT: You understand, by pleading guilty, that

1 you give up your rights to a trial by jury?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Has Mr. Payne talked to you about those
4 rights?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Let me be sure that you understand those.

7 Anytime you're charged with the violation of the law
8 or, or criminal laws in our state, nobody can force you to
9 plead guilty, and you're not required to prove your
10 innocence. You could maintain your innocence or you could
11 simply ask for a jury trial, and, if you did that, the
12 burden would then shift back to the State or it wouldn't
13 shift back. They always have the burden of proving your
14 guilt of a crime with evidence that they have beyond a
15 reasonable doubt at trial.

16 If you had a trial, you would have a right to remain
17 silent. You wouldn't have to say anything about the facts
18 in the case. Wouldn't even have to put up a defense if you
19 chose to. You could if you wished. But if you exercise
20 that right to remain silent, the Court would instruct the
21 jury and tell the jury that they're not even to consider
22 that in determining whether you're guilty or not guilty. At
23 trial -- you see, at trial, the burden, again, is on the
24 State for them to prove your guilt beyond a reasonable doubt
25 with evidence that they have.

1 If you had a trial, you would have the opportunity to
2 be present in the courtroom. You could see the witnesses
3 that the State brought in. You could hear those witnesses.
4 Your lawyer could cross-examine those witnesses on your
5 behalf. Ask them questions. That's called the right to
6 confrontation. That's a trial right.

7 If you had a jury trial, 12 jurors, that would be 12
8 people here from or in Lancaster County, would listen to the
9 evidence, and they would have to all unanimously agree that
10 you were guilty, and would have to unanimously agree that
11 the State had proven your guilt beyond reasonable doubt to
12 these offenses before you could be convicted.

13 Do you understand those rights and a jury trial?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Understanding those rights, do you want to
16 go forward with your plea today or do you want me to set
17 your case for trial?

18 THE DEFENDANT: Go forward.

19 THE COURT: Let me talk about your representation. Mr.
20 Payne is represented you on this.

21 Has he talked to you about your rights in a jury trial?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Has he explained to you about the, the
24 nature of these offenses, and gone over what we call
25 discovery. Sometimes folks refer to it as their motion.

1 That would of been incident reports, case summaries,
2 statements. There may of been videos, evidence that he's --
3 that the State's required to provide for him.

4 Have y'all been over all of that in this, this case?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Have you talked about whether you have any
7 defenses or not?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. And are you satisfied that
10 you're -- whatever y'all talked about, that whatever
11 defenses that you may have talked about, that you
12 understand, by pleading guilty, you give up any right to
13 assert any defenses?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you have any complaints about the way
18 Mr. Payne has represented you in this matter?

19 THE DEFENDANT: No, sir.

20 THE COURT: Are you---

21 THE DEFENDANT: He just actually got the case not too
22 long ago. I had another attorney, but they passed it on to
23 him.

24 THE COURT: All right. And, and, even though he has --
25 in, in your view, and I know this is a case that's two years

1 old, that there was another attorney who had the case and
2 that it has been passed on to him.

3 Again, you have any complaints about the way the
4 lawyer -- cause the lawyer that is here with you today, he
5 is your attorney -- what we call the attorney of record.

6 And so are you satisfied of the way he has represented
7 you?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Are you pleading to these three charges of
10 your own free will?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Has there been anything promised you?
13 You've been threatened in any way to get you to
14 plead -- enter this plea?

15 THE DEFENDANT: No, sir.

16 THE COURT: I find the decision of this Defendant to
17 plead guilty to these three charges to be freely,
18 voluntarily, and intelligently made with the advice of a
19 competent attorney with whom he says he's satisfied.

20 Mr. Patterson, you have one more right. You have a
21 right to appeal, if you disagree with the sentence or I
22 commit an error, you would have a right to file an appeal,
23 but you have to do that within ten days from today's date.
24 Normally, you have to start that process by notifying your
25 attorney if you want to exercise or attempt to exercise your

1 rights in appeal.

2 Do you understand that right?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. what we're gonna do is, the
5 solicitor, I'm gonna ask them to give me a summary of what
6 happened, and I'm gonna hear from anyone that wants to speak
7 on behalf of the State. Once we finish that, I'll speak to
8 your lawyer, Mr. Payne, and ask him if he would like to
9 address the Court. I'd like to hear from anybody wanting to
10 speak to the Court on your behalf, and then I'll hear from
11 you. So, that's the process we're gonna take with the rest
12 of this, this plea.

13 Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. solicitor, tell me what
16 happened.

17 SOLICITOR BREWER: Thank you, Your Honor.

18 This incident happened on August 13th of 2015. Mr.
19 Patterson was traveling on Flat Rock Road, which is in
20 Lancaster County, with his two small children in the back
21 seat of his Dodge Durango. His ten-year-old and his
22 five-year-old were in the back seat. The five-year-old,
23 J.P. [REDACTED], was not in a car seat at the time.

24 Around 1:30PM, he veered across the center line of the
25 road and struck a tree and a utility pole before finally

1 striking another tree. The vehicle overturned at that time.
2 Highway Patrol later estimated him to be going between 57
3 and 62 miles per hour at the time he left the road.

4 Trooper Altman from the Highway Patrol arrived on scene
5 and spoke with the Defendant after the children were
6 transported. The ten-year-old was transported to Richland
7 County by helicopter with severe injuries, and the
8 five-year-old was transported to Springs in Lancaster County
9 at the time with severe injuries.

10 The Defendant, when, when Trooper Altman spoke with
11 him, he noticed that he had a strong smell of alcohol coming
12 from him. His speech was slurred and he had glassy eyes.
13 He told Trooper Altman that he had had three beers and three
14 shots and he had been drinking.

15 The -- J.P. [REDACTED], who had been transported to
16 Springs, was later transported to CMC in Charlotte. He
17 passed away two days later.

18 Lonnie Patterson consented to give a blood sample at
19 the hospital. His blood alcohol content was .228, and he
20 also tested positive for marijuana.

21 Nikki Jones, who was -- is the children's father --
22 mother is here today. She and Mr. Patterson had been
23 separated at that time, but they were still married. She
24 does not wish to address the court today, but she is here
25 with her family members, but it's our understanding that she

1 does not wish to speak.

2 And Sergeant Jay Stare from Highway Patrol is here as
3 well. He spoke with Mr. Patterson, Patterson at the
4 hospital that day, and he does wish to address the Court, I
5 believe, at the appropriate time.

6 THE COURT: All right. Any prior record of the
7 Defendant?

8 SOLICITOR BREWER: He has a 2003 open container
9 conviction, and a 2009 fraudulent check under \$500.

10 THE COURT: I'll be glad to hear from -- is it Trooper
11 Sistare?

12 SERGEANT STARE: Stare.

13 SOLICITOR BREWER: Stare.

14 THE COURT: Stare.

15 I'll be glad to hear from him.

16 If you would -- if you'll come forward, and if you'd
17 state your name for the record.

18 SERGEANT STARE: Sergeant Stare, J.A. Stare.

19 THE COURT: Yes, sir.

20 SERGEANT STARE: I'm over Lancaster, Chesterfield
21 County right now.

22 THE COURT: All right. Then, Sergeant Stare, I'd be
23 glad to hear from you.

24 SERGEANT STARE: I was assigned on duty that day. I
25 was one of the troopers that responded to the hospital when

1 we received word that Mr. Patterson was transported.

2 There's not much I can say, Your Honor. They're --
3 then the facts of this case speak for themselves.

4 Mr. Patterson was suppose to be the protector.
5 Unfortunately, this is, this is what the Highway Patrol
6 dreads every day and I'm sorry. I think about it. This
7 will -- the absolute worst case scenario of, of why about
8 drink and driving, and, and, as I -- and the Highway Patrol
9 asks that the, the State, and, Your Honor, takes these
10 events into account.

11 THE COURT: All right. Thank you. Thank you for being
12 here.

13 Ms. Brewer, anything else?

14 MR. Newman.

15 SOLICITOR NEWMAN: Nothing from the State, Your Honor.

16 THE COURT: All right. Mr. Payne.

17 MR. PAYNE: Thank you, Your Honor.

18 Please the Court.

19 As Mr. Patterson did mention, this is a case that I
20 recently was assigned to just a few weeks ago, but, in that
21 short amount of time, I've gotten to know him very well.
22 Gotten to know his family. I had conversations with a lot
23 of people in his family.

24 This is a case that we had initially thought we would
25 have until December to work out, but I certainly understand

1 law enforcement's position and the solicitor's office
2 position, and the desire to get this over with, and I think
3 Mr. Patterson is, is in that same kind of boat. He wants
4 this to be over with and it will be today cause he keeps --
5 he's living the nightmare that he cost his child his life.

6 As the solicitor mentioned, he is 36. They're numerous
7 people today from his family. I've also heard from his
8 fiancée's family as well. They're here. I believe I've got
9 a list of everyone, but if -- the people that are here for
10 Lonnie Patterson in support, will you please stand at this
11 time?

12 (WHEREUPON, people in the audience stand at this time.)

13 MR. PAYNE: His father is here. His grandfather. His
14 soon to be father-in-law.

15 THE COURT: Thank y'all. Y'all can, y'all can take a
16 seat. Thank you.

17 MR. PAYNE: And they would -- some members of his
18 family would like to address the court.

19 THE COURT: All right. I'll be glad to hear --.

20 MR. PAYNE: Who wants to speak first?

21 THE COURT: Yes, sir, if you'd tell me your name.

22 MR. PATTERSON: Oh, okay. Yes, my name is Nayna
23 (phonetic) Patterson.

24 THE COURT: I'm sorry.

25 MR. PATTERSON: I'm Nayna Patterson. I'm Eugene's

1 father.

2 THE COURT: Yes, Mr. Patterson.

3 MR. PATTERSON: Well, on, on that particular day, Your
4 Honor, it's been hard for all of us since then. It's been
5 two years now and now we are facing a trial of losing
6 another kid here.

7 You know, I understand that it was a tragic accident,
8 and I hate that it happened, but it's, it's nothing that we
9 can do about that now. It was my grandson that was lost in
10 the process, and my other grandson was hurt in that process.

11 During that time, I've been trying to spend time with
12 both of them to get them, you know, see both of them during
13 that time, me and my family. We have literally caught
14 trying to be in both places at one time when this first
15 happened.

16 Unfortunately, we lost a grandchild that day, and,
17 today, like I say, we are here trying to support my son,
18 and, hopefully, you know, you have some compassion on him so
19 he wouldn't have to do no time and we lose another child.

20 THE COURT: All right. Thank you.

21 MR. PATTERSON: That's all I have to say.

22 THE COURT: All right. Thank you.

23 Yes, sir, if you'd tell me your name.

24 MR. NEWMAN: My name is Lonnie Newman.

25 THE COURT: Yes, Mr. Newman.

1 MR. NEWMAN: And I'm -- he's my daughter's fiancé.

2 I been, I been knowing him for about ten years, and,
3 like you say, on that particular day, it was a tragedy. I
4 hate it happened and I know he's, he's got to be sorry that,
5 you know, for losing his own son. I know he didn't mean to
6 do it, but some things happen that we can't, can't control.

7 I real -- I really feel sorry for him, you know, for to
8 be in this position. That's some, some way I've never been
9 and I hope I ever will. I just hope that you'll have mercy
10 on him, and it's up to the Court.

11 THE COURT: All right. Thank you.

12 MR. NEWMAN: Thank you.

13 THE COURT: Yes, sir.

14 MR. HALE: I'm Ricky Hale.

15 THE COURT: Yes, Mr. Hale.

16 MR. HALE: I grew up with the family. We've spent a
17 lot of time together. I watched him come to church and sing
18 on choir and do different things.

19 He just got caught up in a bad situation. I think he
20 just made a terrible mistake. I don't believe it's
21 something he would do every day.

22 I feel for him. I talked to him. I went to see him
23 when he was in prison and he dropped his head and cried. I
24 understand and he understood he made a terrible mistake, and
25 I just pray that God will just continue to have mercy on

1 him, and that the Court will just see fit to do the best
2 that it can by him cause I believe that he learned because I
3 saw the hurt in him when I first saw him in prison, but he
4 made this terrible mistake.

5 Thank you.

6 THE COURT: All right. Thank you.

7 MR. PAYNE: Anyone wish -- else wish to speak?

8 (No response.)

9 MR. PAYNE: Your Honor, Mr. Patterson does have four
10 children. He's got two teenage daughters. One of whom is
11 about to graduate high school. She's 17-years-old. He also
12 has a 15-year-old daughter. He also has the 12-year-old son
13 who survived the accident. He has a very good relationship
14 with that child. He has a one-year-old son named
15 and told me Friday that he and his fiancée are actually
16 expecting, expecting a child. She's about a month along.
17 So, there are, by my count, at least five children who, who
18 will have their lives affected by this plea.

19 As the solicitor mentioned, he's never had -- he
20 doesn't have a significant criminal record. He's, unlike a
21 lot of the people that, that I deal with in this profession,
22 he's, he's truly a good guy. He's been out on bond since
23 2015.

24 Anytime that I've needed to talk to him in the brief
25 time that I've known him, he's been in my office. Anytime

1 that I've told him hey, you know, there's a chance, a
2 significant chance that you're going to go to prison, he's
3 still shown up. He's still communicated with me. Gave him
4 my cell phone number and he's texted me -- texts and calls
5 and gets in touch when I need to talk to him or, if he
6 thinks of something that can, can possibly help his defense,
7 he lets me know.

8 He's, he's tried to live a normal life since this
9 situation, but, in the brief time that I have known him, you
10 can tell that he's, he's trying to, he acts like that he's
11 trying to move on, but you can tell there's something
12 holding him back, and, I think the stress of living this,
13 you can -- you see it in him. And I've been able to see it.

14 He does have a full-time job. As I mentioned, he has a
15 fiancé. They were planning on getting married later this
16 Fall, but I think that's on hold right now. His fiancé did
17 want to be here today, but she is at a doctor's appointment
18 getting a checkup on the health of their baby.

19 He -- after the accident, he did complete rehab at the
20 Alpha Center. I believe it's a treatment center in Camden.
21 I do have paperwork showing where he enrolled in that, and,
22 if the Court is inclined, and would like to see it?

23 THE COURT: I'd be happy to see that.

24 MR. PAYNE: I'll pass that up.

25 I also have an email from a friend of his that I got

1 this morning who could not be here today. I would also like
2 to pass that up if the Court would like to see it.

3 Your Honor, he -- I believe he took the appropriate
4 steps in trying to get help. He did realize that he needed
5 some help for his, his alcohol problems.

6 As I've talked to him in, in preparing for this case,
7 and talking about his defenses, there were some, but, you
8 know, as we discussed. Number one, we didn't think they
9 would be viable at trial. We felt like there was a strong
10 possibility we would lose at trial. And, second, he has no
11 desire to put his family through a trial. He has, has tried
12 his best to minimize the effect on his children. He's
13 actually not told any of his children what might happen
14 today, and, in trying to, to prepare for this, it's, it's
15 been harder, in the back of my mind, knowing that his kids
16 don't know whether or not their, their father is gonna come
17 home tonight.

18 He -- as I've mentioned, he, he admits he was wrong in
19 this situation, but I think it's important to, to also
20 consider why he, he was intoxicated. From talking with him,
21 he and his wife were childhood sweethearts. They had known
22 each other growing up. They got together and got married in
23 2004, had two sons, but, after about ten years of marriage,
24 in 2014, early 2015, their marriage started dissolving.

25 It, it got to a point where they were almost at the one

1 year period of separation to where they could file for
2 divorce. Mr. Patterson attempted to try to contact his wife
3 at the time to see what was gonna go on with their divorce,
4 whether or not they were really going through with it. From
5 what he was telling me, the -- he tried to get in touch with
6 her, and the longer the night went on, he would get a
7 response every now and then, but the longer that it went on,
8 the more he would drink, and this accident, obviously,
9 happened in the middle of the afternoon, but I believe he
10 was drinking well into the wee hours of the morning in
11 trying to figure out what was gonna happen with his
12 marriage, someone he had been married to for ten years.

13 So, I think there's a, there's a valid, at least in my
14 mind, a valid reason that supports why he was intoxicated.
15 It's not a reason of he was out partying all night. It was
16 a dissolution of a family. His family was falling apart in
17 front of his eyes, and he turned to alcohol, which he
18 shouldn't have, and he definitely shouldn't have put his
19 kids in the car the next morning, but he was trying to take
20 them, I believe, to his ex-wife's house to get clothes for
21 them to wear for the day. Middle of the afternoon, the
22 accident happened.

23 So, I think the -- in talking with him, our argument
24 really was not at a trial. I think we could of argued that
25 the blood alcohol concentration was skewed because he'd been

1 drinking all night, that he really wasn't intoxicated, but
2 making a jury believe that and trying to sell it to a jury
3 would of been a very hard task. The marijuana in his system
4 we have not discussed, but, obviously, there's a time period
5 that marijuana would stay in his system, and he told me,
6 from talking with him, I don't believe he was smoking
7 marijuana that night. I think it was probably something
8 that was still in his system from times before that.

9 So, I think the question becomes really, from my point
10 of view, what is an appropriate punishment, and, obviously,
11 it's, it's very easy to look at this case where you have a
12 five-year-old that lost his life and say that death or that
13 prison is, is an appropriate punishment. But, in getting to
14 know his family and getting to know him, I just -- I firmly
15 believe that prison will not fix anything in this situation.

16 I don't think prison is gonna make him better. It's
17 not gonna ease his pain. Prison is not gonna ease his
18 ex-wife's pain. Prison's not gonna ease his family's pain.
19 Prison won't put his family back together. The only thing
20 that's gonna put the family back together is for them to put
21 this behind them and for him to move on.

22 What I do think prison will do is ruin the lives of his
23 children. I believe it will punish his children and not
24 punish him. He has five children, a daughter who's about to
25 graduate, who, if he's in prison, her dad won't be at her

1 graduation. Two daughters who are, are the same age, 17 and
2 15, who, if their dad's in prison, won't be able to walk
3 them down the aisle. A 12-year-old son who went through a
4 horrific car crash and is trying to rebuild a relationship
5 with his father. It can't be done when he's in prison.
6 Then he has now two young children who will not know who
7 their father is because he's in prison.

8 Prison, in my opinion, will not help society. It won't
9 deter people from doing this type of reckless behavior.

10 What I do think will help society is to have
11 Mr. Patterson share his story with people, share his
12 mistakes with people. I think, and what we're asking the
13 Court to do, is to consider a long -- a term of house arrest
14 for him to be followed up with some probation, a very
15 lengthy probation period, and a very large amount of
16 community service cause I think that's what would help this
17 family. I think that's what would help the community is
18 there could be nothing more powerful in talking to him in
19 knowing that, because he made a terrible mistake, that his
20 children are no longer here. That, that, to me, is the more
21 powerful message that can be delivered to the community that
22 it can't be done if he's in prison.

23 We're begging the Court today for mercy. Mercy for
24 Mr. Patterson to be able to be, have some type of
25 relationship with his children, be a father for his unborn

1 child, to be able to meet his unborn child, to be a father
2 for his children who are about to become adults in their own
3 right, to be there to be able to mentor them, and to watch
4 them grow up. And to make sure that those kids don't grow
5 up with a father -- without a father in their life.

6 I believe house arrest would be appropriate. He would
7 be able to, you know, still provide and have a relationship
8 with his, with his kids. Also it, it punishes him.
9 Regardless though if the Court is inclined to impose a
10 prison sentence, I firmly believe that it doesn't matter if,
11 if he's in the South Carolina Department of Corrections or
12 if he's at his house, he's wherever, he's in prison every
13 day because of what he did.

14 You can tell that in looking at him. You can tell it
15 in talking to him. You can tell that in, in his actions and
16 the way he talks.

17 He's a very respectful person. He, he understands that
18 there is a price to pay, but I would ask the Court, and
19 ask -- beg the Court for mercy and for justice in this case,
20 and I think justice would be to make sure that kids -- his
21 main children don't grow up without a father. Make sure
22 that there is some community benefit that's derived from
23 this plea, and I believe the only way that can be done is to
24 have him out there personally telling people his story, and,
25 and personally deterring people from doing it.

1 THE COURT: All right. Thank you, Mr. Payne.

2 Just a moment, Mr. Patterson, I'm gonna ask you if you
3 have anything you want to say.

4 Let me be sure that you understand that, on the Felony
5 DUI where Death results, that is also a serious --
6 classified a serious and violent offense. Two things from
7 that.

8 One is that, because of its status, it's gonna affect,
9 if I give you a sentence in the Department of Corrections,
10 your parole eligibility is affected by that. Secondly,
11 because it's a serious offense, we have what's called the
12 Three Strikes Law in South Carolina. That if you are
13 convicted in your lifetime with a third serious offense,
14 then this would be one of those strikes. At that time, you
15 could get a life without parole.

16 Just need to be sure that you understand, again, this
17 court and your -- or your lawyer or anyone else can't tell
18 you when you would be parole eligible, but I can tell you
19 that, because it's a serious, violent offense, it would
20 affect your parole eligibility.

21 Do you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You still want to go forward with your
24 plea?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: I'll be glad to hear from you if you'd like
2 to say anything.

3 THE DEFENDANT: Well, basically, everything everybody
4 said is what I was gonna say. I just made a, made a
5 mistake, and it cost my son not to be here. I deal with
6 that every day and I just want to be a part of my kids' life
7 like I always have been. I really don't -- I think
8 everybody do deserve second chances.

9 I mean it's just an honest mistake that I made, and I
10 can't take it back. Nothing I could say can bring my son
11 back. Nothing I can do can bring him back. I just should
12 of made a better decision that morning.

13 THE COURT: All right. Thank you.

14 How many days was he in before he---

15 MR. PAYNE: Your Honor, by my count---

16 THE DEFENDANT: Three months.

17 MR. PAYNE: ---about 90 days.

18 THE COURT: Ninety days.

19 MR. PAYNE: And, Your Honor, Mr. Patterson would like
20 for me to request that, if the Court is inclined to impose a
21 sentence in the Department of Corrections, that he have
22 until Friday to turn himself in, and, as I did mention, he
23 hasn't told his children that he's going to prison. I don't
24 believe he would be a flight risk. He's always shown up and
25 manned up, but, as I explained to him, that is in the

1 Court's discretion.

2 THE COURT: All right. Thank you.

3 (Pause.)

4 THE COURT: Well, here's the thing, Mr. Patterson.

5 I, you know, I do appreciate your demeanor. I
6 appreciate it. It appears that you are dealing with what's
7 a very tragic situation. However, in our society, the
8 consequences for a Felony DUI are great. In, in many ways,
9 I mean -- and they're extremely difficult because no one
10 really ever intends to kill anybody when they get behind the
11 wheel of a vehicle if they'd been drinking. However, it is
12 one of the areas where certainly, in my lifetime, that the
13 message about the consequences of drinking and driving is
14 almost a daily message that we hear about. So, in, in a
15 sense, it's, it's a mistake and, yet, it's not a mistake
16 because of just how we should -- we're all fully informed of
17 those consequences.

18 The Court has to decide, anytime in determining what's
19 justice and mercy, one is that, rightfully so, in our system
20 of justice, there is an -- there's a certain amount of
21 punishment for breaking the law that the Court has to bring
22 down. Secondly, the Court also has to consider the affect
23 on the rest of society. In, in essence, the message to the
24 rest of society, and that's extremely important.

25 I'm not foolish enough to believe that prison fixes

1 anything. Our Department of Corrections doesn't correct
2 anybody. However, what happens in the Department of
3 Corrections, how an individual responds in the Department of
4 Corrections, really has to come from their side, their
5 heart, and what's going on in them, and it appears that
6 you've begun that process.

7 This is a, this is a terrible violation of the law. A
8 .228 is a significant gross intoxication, and the Court is
9 considered all those, and, based on, based upon that, the
10 court believes that the appropriate sentence on each of
11 these indictments, and they're gonna all be the same,
12 2015-GS-29-1292, Felony DUI where there's great bodily
13 injury that results, 2015-GS-29-1293, Felony DUI where the
14 death was a result, 2015-GS-29-1291, child endangerment,
15 Sentence of each of those indictments is that he be
16 committed to the Department of Corrections for a determinate
17 term of ten years to run concurrent. Credit for 90 days.
18 He's to be, he's to be taken into custody immediately.

19 Thank you.

20

21

22 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

23

24

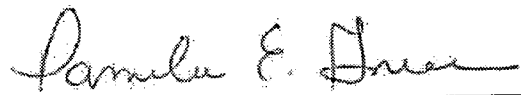
25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Lancaster County, South Carolina, on the 16th day of October, 2017.

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

March 29th, 2018



PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA)

County of LANCASTER)

IN THE COURT OF COMMON PLEAS

2018 CP 29 00266

Lennie Patterson #374294)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

CLERK OF COURT
LANCASTER, SC

2018 MAR - 8 PM 1:44

FILED
OFFICE OF CLERK
OF COURTINSTRUCTIONS B READ CAREFULLY

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

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

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

1. Place of detention WATERLOO CORR. INST. P.O. Box 189
REINHART SC 29128
2. Name and location of Court which imposed sentence LANCASTER COUNTY
GS COURT.
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2015 GS 2901891

- (b) 2015CS2901292
- (c) 2015CS2901293
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) OCTOBER 16, 2017 10 YEARS CONCURRENT
- (b) OCTOBER 16, 2017 10 YEARS CONCURRENT
- (c) OCTOBER 16, 2017 10 YEARS CONCURRENT
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. S.C. Court of Appeals (Appellant Case No. 2017-02190)
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. DISMISSED
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. DECEMBER 12, 2017
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Reaffirmed Pursuant Rule 221(b), SCACR
- ii. _____
- iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing:
- (a) _____

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) INEFFECTIVE ASST. OF COUNSEL
- (b) DUE PROCESS VIOLATIONS REGARDING PLEA & SENTENCE
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE ATTACHMENT
- (b) SEE ATTACHMENT
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? YES
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. INEFFECTIVE ASST. OF COUNSEL
- ii. DUE PROCESS VIOLATIONS REGARDING PLEA & SENTENCE
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. S.C. COURT OF APPEALS
- ii. _____
- iii. _____

iv. _____

(c) the disposition thereof:

i.

Dismissed, Reaffirmed SENT

ii.

iii.

iv.

(d) the date of each such disposition:

i.

December 12, 2017

ii.

iii.

iv.

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

i.

Appellant Failed to provide explanation Rule 203(d)(1)(B)(iv) SCACR

ii.

iii.

iv.

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

NO

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

(a) which grounds have been presented:

i.

ii.

iii.

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

i.

ii.

iii.

16. If any ground set forth in (15) 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) INEFFECTIVE ASST. OF COUNSEL
 (b) _____
 (c) _____

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

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

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

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

i. MICHAEL RYAN PALME (ESQUIRE)
104 N. MAIN ST. P.O. Box 1809
 ii. LANCASTER, SC 29721

iii. _____

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

i. PLEA

ii. SENTENCING

iii. APPEAL

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

VACATE SENTENCE + RE-SENTENCE through Evidentiary
with time to be served attributed to actual facts
as set forth with this application.

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

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

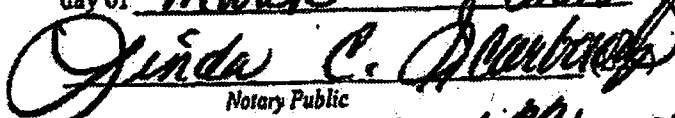
VERIFICATION

County of Sumter)

I, LONNIE PATTERSON SCDC # 374294, 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.



SWORN to and subscribed before me this 1st
 day of MARCH 2018


 Notary Public

My Commission Expires: MARCH 22 2021

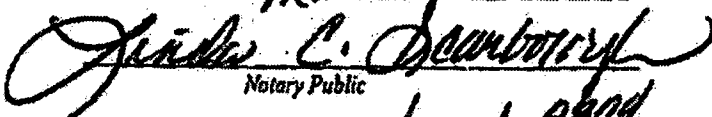
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Louise Patterson SDC #374294, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true: ,

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


Applicant

SWORN or affirmed to and subscribed before me this
1st day of March, 2018


Notary Public

My Commission Expires: March 29th 2019

Lancaster County

Jeff Hammond
Clerk of Court

Clerk of Court of Lancaster County
Post Office Box 1809
Lancaster, S.C. 29721

Phone (803) 285-1581
Fax (803) 416-9388

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

IN THE COURT OF COMMON PLEAS
6TH JUDICIAL CIRCUIT

Lonnie Patterson #374294

CERTIFICATE OF SERVICE

Applicant

CASE# 2018-CP-29-00266

VS

State of South Carolina

Respondent

I certify that, on March 8, 2018, I served a copy of the PCR Application by mailing to him at his last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Lonnie Patterson #374294
WRCI-D2-34
PO Box 189
Rembert, SC 29128

DeShawn Mitchell
Post-Conviction Relief
6th & 13th Judicial Circuits
PO Box 11549
Columbia, SC 29211-1549

FILED
OFFICE OF CLERK
OF COURT
2018 MAR -8 PM 3:05
CLERK OF COURT
LANCASTER, SC

3. 8. 2018

Date

Jeff Hammond
Signature

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

COURT OF COMMON PLEAS
FOR THE 6th JUDICIAL CIRCUIT
Case No.: 2018-CP-29-00266

Lonnie E. Patterson (374294),

Applicant,

v.

State of South Carolina.

**AMENDED POST-CONVICTION
RELIEF APPLICATION**

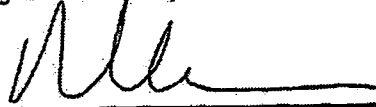
The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on March 8, 2018 to add the following allegations:

Ineffective Assistance of Counsel as to Ryan Payne Esquire:

- a. Failure to properly investigate Applicant's Case including but not evaluating the veracity of evidence sought against Applicant
- b. Failure to adequately provide Applicant with all discovery and properly discuss all discovery and evidence sought against him prior to Applicant accepting his plea bargain.
- c. Failure to properly counsel, discuss, and explain the pending charges and consequences so that Applicant could make an informed decision as to whether to take a plea bargain or pursue a trial.
- d. Failure to discuss possible defenses and challenges to the evidence with the Applicant prior to taking a plea

Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application and this Amended Application. Amendments should be liberally allowed when no prejudice to the opposing party will result. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,

By 

Donae A. Minor
Attorney for Applicant
1750 Highway 160
Suite 101 #259
Fort Mill SC 29708
Telephone: 844-878-2015
Email: donae@attorneyminor.com
South Carolina Bar No.: 102550

November 12, 2018

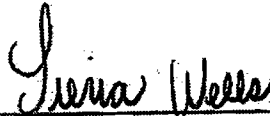
CERTIFICATE OF SERVICE

I certify that I have served this document via email and United States Postal Service mail to:

Samuel Key
Assistant Attorney General
Skey@scag.gov

S.C. Attorney General's Office
Rembert C. Dennis Building
Post Office Box 11549
Columbia, South Carolina 29211

This 13th day of November, 2018.


TIERRA WELLS, PARALEGAL
Minor Law Offices

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

Lonnie E. Patterson, 374294

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SIXTH JUDICIAL CIRCUIT

2018-CP-29-0266

**RETURN AND MOTION FOR
MORE DEFINITE STATEMENT**

Respondent, making its Return to the Application for Post-Conviction Relief ("PCR") filed on March 8, 2018, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lancaster County Clerk of Court. In October of 2015, the Lancaster County Grand Jury indicted Applicant for Felony DUI causing death (2015-GS-29-1293), Felony DUI causing great bodily harm (2015-GS-29-1292), and child endangerment, committing certain vehicular offenses with minor in vehicle (2015-GS-29-1291). Ryan Payne, Esquire, represented Applicant. Solicitor Randy Newman, Esquire, and Assistant Solicitor Cassity Brewer, Esquire prosecuted the case. On October 16, 2017, Applicant pled guilty as indicted to all of the charges before the Honorable Daniel D. Hall. Judge Hall sentenced Applicant to ten years for each charge with all charges to be served concurrently to one another.

Applicant filed a timely notice of appeal on October 19, 2017. The South Carolina Court of Appeals dismissed the appeal for failure to provide a sufficient explanation as required by SCACR Rule 203(d)(1)(B)(iv) by order filed December 12, 2017. State v. Patterson, App. Case

No. 2017-002190. The remittitur was returned on January 5, 2018.

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

II.

This incident occurred on August 13, 2015. Applicant was traveling on Flat Rock Road, which is in Lancaster County. Applicant's ten-year-old and five-year-old children were in the back seat of his Dodge Durango. The five-year-old was not in a car seat at the time. Around 1:30pm, Applicant veered across the center line of the road and struck a tree and a utility pole before finally striking another tree. The vehicle overturned at that time. Highway Patrol later estimated Applicant to be going between 57 and 62 miles per hour at the time he left the road. Trooper Altman from the Highway Patrol arrived on scene and spoke with Applicant after the children were transported from the scene. The ten-year-old was transported to Richland County by helicopter with severe injuries, and the five-year-old was transported to Springs in Lancaster County at the time with severe injuries. Trooper Altman after speaking with Applicant noticed that Applicant had a strong smell of alcohol coming from him. Applicant's speech was slurred and he had glassy eyes. Applicant told Trooper Altman that he had had three beers and three shots. The five year old, who had been transported to Springs, was later transported to CMC in Charlotte. He passed away two days later. Applicant consented to give a blood sample at the hospital. His blood alcohol content was .228, and he also tested positive for marijuana. (GP. Tr. 12-13).

III.

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
2. Due Process Violations Regarding Plea and Sentence

IV.

Respondent submits Applicant's allegation of ineffective assistance of counsel is without merit. In a post-conviction relief action, the applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process" that the proceeding "cannot be relied upon as having produced a just result." Id. (citing Strickland v. Washington, 466 U.S. 668, 686 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The court strongly presumes counsel 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 in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance

by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625.

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Applicant also alleges he was denied due process of law. However, Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "... specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965).

Applicant has failed to state with any specificity the specific facts giving rise to this allegation. Additionally, this allegation is not supported by any other additional information in the application. Respondent moves pursuant to Rule 12(e), SCRCR, to require Applicant to provide a more definite statement of his allegation of a due process violation. The Uniform Post-Conviction Procedure Act requires applicants to "specifically set forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Furthermore,

Rule 8(a), SCRCP, requires all civil pleadings include "a short and plain statement of the facts showing that the pleader is entitled to relief." Applicant's allegations are so vague and ambiguous that Respondent cannot be reasonably required to frame a responsive return. Therefore, Respondent moves to require Applicant to file an amended application well in advance of the hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

VI.

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.

VII.

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

VIII.

WHEREFORE, having made its Return, Respondent requests Applicant submit a more definite statement and an evidentiary hearing be held on any claims so requiring one.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

DESHAWN H. MITCHELL
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

May 22, 2018

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

LONNIE E. PATTERSON, #374294,

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

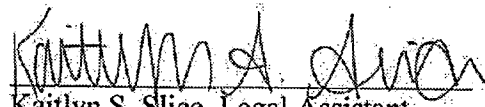
2018-CP-29-0266

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:

Donac A. Minor, Esquire
Minor Law Offices, LLC.
1750 Highway 160 W, Ste 101 #259
Fort Mill, South Carolina 29708

DATED this the 23rd day of May 2018.


 Kaitlyn S. Slice, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA V. LONNIE P. PATTERSON - 2018-CP-29-00266

STATE OF SOUTH CAROLINA
LANCASTER COUNTY

IN THE GENERAL COURT OF JUSTICE
CIRCUIT COURT DIVISION
2018-CP-29-00266

-----X	
STATE OF SOUTH CAROLINA,	:
	:
vs.	:
	:
LONNIE P. PATTERSON,	:
	:
Defendant.	:
-----X	

TRANSCRIPT OF RECORD

January 23, 2019
Lancaster, South Carolina

B E F O R E

The Honorable Paul M. Burch, Judge Presiding.

A P P E A R A N C E S

SAMUEL KEY, ESQ.
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Office of The Attorney General
State of South Carolina
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I N D E X

PROCEEDINGS	3
CERTIFICATE OF DELIVERY	26

E X H I B I T S

(NONE OFFERED)

1 PROCEEDINGS

2 * * *

3 WEDNESDAY, JANUARY 23, 2019

4 LANCASTER, SOUTH CAROLINA

5 (Whereupon, the following proceedings were
6 held in open court. The defendant was
7 present with his attorney, along with
8 counsel for the State.)

9 THE COURT: All right.

10 MR. KEY: This is Lonnie Patterson v. The State of
11 South Carolina, Case Number 2018, CP-29-0266. The
12 Applicant is presently confined at the South Carolina
13 Department of Corrections, pursuant to Orders of
14 Commitment of the Lancaster County Clerk of Court.

15 In October of 2015, the Lancaster County Grand Jury
16 indicted applicant for felony DUI causing death, felony
17 DUI causing great bodily harm, and child endangerment,
18 and committing certain vehicular offenses with a minor
19 in the vehicle.

20 Ryan Payne represented Applicant. Solicitor Randy
21 Newman and Assistant Solicitor Cassidy Brewer prosecuted
22 the case. On October 16, 2017, Applicant pled guilty as
23 indicted to all charges before the Honorable Daniel D.
24 Hall. Judge Hall accepted applicant's plea and
25 sentenced him to ten years for each charge, with all to

1 be served concurrently.

2 Applicant filed a timely Notice of Appeal October
3 19, 2017. The South Carolina Court of Appeals dismissed
4 the appeal for failure to provide a sufficient
5 explanation as required by South Carolina Appellate
6 Court Rule 203. The case was remitted on January 5,
7 2018.

8 Originally, the State filed a return and a motion
9 for a more definite statement on November 12, 2018. The
10 application was amended.

11 The allegations are Ineffective Assistance of
12 Counsel for failure to investigate the case, failure to
13 adequately provide Applicant with all the discovery,
14 failure to properly counsel, discuss, and explain the
15 pending charges and consequences of the charges, and
16 failure to discuss possible defenses and challenges to
17 the evidence.

18 He is represented today by Ms. Donae Minor. I will
19 hand it over to her.

20 THE COURT: Ms. Minor.

21 MS. MINOR: Your Honor, we call Lonnie Patterson to
22 the stand.

23 THE COURT: Let me inquire. Have you discussed
24 with him the possible pitfalls and that I cannot reduce
25 the sentence? The only thing I can do is grant a new

1 trial if he were to prevail. He would go back to ground
2 zero on all of these charges. I have not totaled it up,
3 but I am sure it's way on up there in the number of
4 years that he would be re-exposed to if he were to be
5 found guilty by a jury at sentencing.

6 Have you discussed that with him?

7 MS. MINOR: Your Honor, I have discussed that
8 several times. My client indicates he still wishes to
9 move forward.

10 THE COURT: All right. Come around and be sworn,
11 please.

12 LONNIE PATTERSON,
13 called as a witness by and on behalf of
14 the Applicant to testify, being first duly
15 sworn was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MINOR:

18 Q Mr. Patterson, you pled guilty to felony DUI and
19 child endangerment charges, and Ryan Payne was your
20 attorney at the time; correct?

21 A Yes.

22 Q Today, you are claiming ineffective assistance of
23 counsel against Attorney Payne; is that correct?

24 A Yes.

25 Q The basis of your application is that he failed to

1 properly investigate your case, including his failure to
2 discuss and evaluate the evidence and discovery that was
3 sought against you; correct?

4 A Yes.

5 Q His failure to adequately counsel you on the
6 pending charges, consequences, and defenses so that you
7 can fully determine if moving forward with the trial was
8 in your best interest; is that correct?

9 A Yes.

10 Q When did Mr. Payne become your attorney?

11 A About two-and-a-half, three months before I went to
12 court.

13 Q Was he hired or appointed?

14 A Appointed.

15 Q You said two to three months before you went to
16 court. Who was your previous attorney?

17 A Mark Grier.

18 Q It's correct that you worked with Mark Grier about
19 two years before Mr. Payne became involved in your case?

20 A Yes.

21 Q Do you believe that the change in attorneys
22 prejudiced your case?

23 A Yes.

24 Q How so?

25 A Because he didn't have enough time to

1 actually --

2 MR. KEY: Objection, Your Honor. That is not an
3 allegation before the Court.

4 MS. MINOR: Your Honor, in response to that, I
5 would have to say that he is saying that he failed to
6 adequately counsel him on the charges. I believe that
7 that is an allegation. It may not say that facially
8 (sic), but it is an allegation.

9 THE COURT: I understand your reason. I will let
10 you go forward.

11 MS. MINOR: Thank you, Your Honor.

12 BY MS. MINOR:

13 Q How do you believe that prejudiced your case?

14 A He didn't have the proper time to actually
15 investigate my case. He only had it for a few months.

16 Q When Mr. Payne became your attorney of record, did
17 he immediately contact you to discuss the case?

18 A He called me up to meet me. He met me, and he told
19 me that he was the new attorney on the case. We had
20 until December, actually, to go to Court, but they
21 changed it to October, within a few weeks of him being
22 my attorney.

23 Q In addition to that, did he meet with you any
24 other times?

25 A I want to say about two more times.

1 Q What did you discuss during those meetings about
2 your case?

3 A Basically, he said that it would be within the
4 numbers of 8 to 12 years or 10 years that they were
5 offering me. That was basically -- he never even had a
6 folder with him, but we had a discussion.

7 Q Were you provided with discovery in your case?

8 A In 2015, yes.

9 Q Did you discuss that discovery with Mr. Payne?

10 A No.

11 Q In a meeting with Mr. Payne, did you believe that
12 he was well-versed about the facts and everything in
13 your case?

14 A What do you mean?

15 Q Do you believe that he was familiar enough with
16 your case to --

17 A No.

18 Q What did he discuss with you when you met with
19 him?

20 A Just basically that he was the new attorney. We
21 was going to try to move forward with the case. That
22 was just basically it. We didn't really have too much
23 of a conversation. He talked to my ex-wife. That is
24 basically it.

25 I wanted to -- I asked if it was going to be a

1 violent sentence or nonviolent sentence. He pretty much
2 didn't know.

3 Q Did he talk about the facts of your case?

4 A No.

5 Q When you asked those questions, did he provide --
6 when you asked those questions, violent or nonviolent
7 offense, did he answer the question?

8 A He didn't know.

9 Q Did he ever discuss the implications of taking
10 your case to trial versus entering your guilty plea?

11 A No. I don't really think he was prepared to go to
12 trial, if we did go to trial. He didn't really go
13 through my file to get the facts on my case.

14 Q So if you felt that way, why did you decide to move
15 forward with the guilty plea?

16 A Because at the time, like I said, I don't know
17 nothing about the law, so I didn't have no choice but to
18 be satisfied at the time with him being my attorney.

19 I was thinking that he would do more of a job
20 defending me.

21 Q Did Mr. Payne discuss the sentencing that you could
22 face by pleading guilty?

23 A Yes.

24 Q You were provided with your guilty plea
25 transcript; correct?

- 1 A Yes.
- 2 Q Within that, you did see where Mr. Payne
3 acknowledge that he only worked with you for a couple
4 months.
- 5 A Exactly.
- 6 Q Do you believe that if you had additional time to
7 discuss your case and prepare for your case with
8 Mr. Payne, you would have opted for a trial instead of
9 the guilty plea?
- 10 A Exactly.
- 11 Q Is there anything else that you would like for the
12 Judge to know regarding Mr. Payne's ineffective
13 assistance of counsel?
- 14 A If he would have actually investigated my case, to
15 me, he would have challenged the voluntariness of my
16 consent. I think I could have come out better with a
17 nonviolent sentence than a violent sentence. I am not a
18 violent person. I don't even have a record.
- 19 I think it would have been a better outcome than
20 me doing 10 years violent. If it would have been 10
21 nonviolent, I would have come out better with a
22 nonviolent sentence than a violent sentence.
- 23 Q You discussed all of that with Mr. Payne; is that
24 correct?
- 25 A Exactly.

1 MS. MINOR: Nothing further, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. KEY:

4 Q Mr. Patterson, is your main allegation that you
5 received a 10-year violent sentence instead of a 10-year
6 nonviolent sentence?

7 A No. That is not the main allegation, but that is
8 part of it.

9 Q How many times did you meet with Mr. Payne before
10 you pled?

11 A Maybe two or three times.

12 Q Did he go over the discovery with you?

13 A No.

14 Q Did he ever discuss any possible defenses with you?

15 A No defenses. I believe he didn't discuss any
16 defenses because he really didn't go through my file.

17 Q Did you give your attorney any potential witnesses
18 to investigate?

19 A I mean, as far as who to investigate? He talked
20 to my ex-wife, that is my son's mother. He talked to
21 her, I think, maybe a couple of times on the phone. She
22 is here today.

23 Q Did you ask him to speak with her?

24 A Yeah. He spoke with her. He called her.

25 Q Did you and Mr. Payne discuss any of the plea

- 1 offers that the State was offering?
- 2 A They didn't never come to me with no offer.
- 3 Q So your plea was a straight-up plea?
- 4 A Yeah.
- 5 Q But they did allow you to plead guilty?
- 6 A Uh-huh. Yes.
- 7 Q Was it your decision to plead guilty?
- 8 A Yes. Basically, after he came to me and told me
9 that the State said in November -- if I didn't go up in
10 October or November, they were going to be asking for 25
11 years.
- 12 Q So if you had waited until December, the State was
13 going to recommend 25 years?
- 14 A No. December was the time that they gave him to
15 actually have the case prepared. They came to him later
16 on within a few weeks after him being my attorney. They
17 told him we had until October.
- 18 Q Did you waive jurisdiction in this case?
- 19 A Yes.
- 20 Q So you pled in Winnsboro?
- 21 A Yes.
- 22 Q But your charges were from Lancaster?
- 23 A Yes.
- 24 Q Were you placed under oath at the plea hearing?
- 25 A Yes.

1 Q Do you remember Judge Hall going through and asking
2 you any questions about Mr. Payne's representation?

3 A Yes.

4 Q Did you indicate to the Judge at your plea hearing
5 that you didn't feel like your attorney was prepared?

6 A No. I didn't say anything like that. I said that
7 I was satisfied with his performance with me. Like I
8 said, I didn't have a choice. I didn't know the law
9 like that. I still don't. I thought that he would
10 represent me better.

11 Q So what were you expecting by pleading guilty?

12 A Lesser time than I have now.

13 Q Did he ever promise you lesser?

14 A No. He didn't even really know.

15 Q What was your -- what did you think, going into
16 your plea that you could get, sentencing-wise?

17 A At least -- if it was a 10-year nonviolent
18 sentence -- I was willing to even accept that. I even
19 tried to get him to ask the Solicitor about a sentence
20 like that. He said he could never get in contact with
21 them.

22 Q Did you tell Judge Hall that you were guilty?

23 A Yes, of the accident.

24 Q Your children were in the car with you?

25 A Both of my boys. My oldest son is here today.

- 1 Q Did you agree with the facts that the State
2 presented to the Judge?
- 3 A No.
- 4 Q Did you bring that up at your plea hearing?
- 5 A No. I didn't have anything else to say after
6 that.
- 7 Q Do you recall Judge Hall going over your
8 Constitutional Rights of a jury trial?
- 9 A Yes.
- 10 Q Do you recall waiving those rights?
- 11 A Yes.
- 12 Q Did Mr. Payne ever tell you that you would get 10
13 years nonviolent?
- 14 A No. He didn't know if it was going to be violent
15 or nonviolent. He didn't actually know until the next
16 day when he came to see me in the County Jail. I got
17 sentenced on the 16th of October. He came to visit me
18 on the 17th. That is when he told me it was going to be
19 85 percent.
- 20 Q Did Mr. Payne show you the sentencing sheet that
21 they were going to offer to the Judge?
- 22 A Yes. The day of court.
- 23 Q The day of?
- 24 A Yes.
- 25 Q Do you recall whether the sentencing sheet had

1 "violent" or "nonviolent" marked on it?

2 A I didn't know anything about that until after I was
3 in the county that same day on the 16th.

4 Q So you saw the sentencing sheet, but you didn't
5 see that it was violent?

6 A I didn't see if it was violent or nonviolent.

7 Q But it is marked "violent"?

8 A Yes. The felony DUI resulting in death is more
9 violent than child endangerment and great bodily injury
10 is more nonviolent.

11 Q Did you sign the sentencing sheet?

12 A Yes.

13 MR. KEY: No further questions.

14 THE COURT: Ms. Minor?

15 MS. MINOR: No further questions of this witness,
16 Your Honor.

17 THE COURT: You may step down.

18 (Whereupon, the witness exited the witness stand.)

19 MS. MINOR: We will call Mr. Ryan Payne.

20 RYAN PAYNE,

21 called as a witness by and on behalf of
22 the Defendant to testify, being first duly
23 sworn was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MS. MINOR:

1 Q Good morning, Mr. Payne.

2 A Good morning.

3 Q Would you agree with me that you had a short amount
4 of time to review and prepare for Mr. Patterson's case?

5 A I would say relatively speaking, yes, as compared
6 with his other lawyer. I did receive the case, as he
7 stated, in August. In that time, I did investigate the
8 case. I got -- I pretty much immersed myself in it. It
9 became my life for about the three months that I did
10 have it.

11 Q What types of discussions did you have with Mr.
12 Patterson about his case, based off of your short
13 review?

14 A Initially, we discussed a trial versus a plea the
15 first time I met with him, I believe, in August. I
16 believe I got the case on August 20, somewhere in there.
17 We met on August 29. We discussed the plea versus a
18 trial. We went over the discovery that he already had a
19 copy of. He was already very familiar with it. Mainly,
20 we went over the two elements that kind of doomed him in
21 the case, which were his blood draw and the fact that it
22 showed .228 BAC as well as THC in his system.

23 We went over the defenses to the THC, and that it
24 takes 30 days for marijuana to cycle out. I believe he
25 and I discussed that if we went to trial on that element

1 of the felony DUI, we would be in good shape. We could
2 put an expert up to say that it would take 30 days for
3 it to get out of his system.

4 The main flaw that we had was BAC coming back as a
5 .228, which was almost three times the legal limit.

6 Q You had those discussions with him?

7 A We did. After that initial meeting -- and maybe
8 even the second time that I saw him -- we started
9 talking more about pleas than a trial. Number one, he
10 didn't want to put his family through a trial. He does
11 have one son, who, I believe, would probably have to be
12 a witness at a trial.

13 We went over there, and it just became clear to
14 me -- and I think to him -- that he didn't really want
15 to put his family through that. That is when I began
16 discussing plea options with the Solicitor, as well as
17 law enforcement, too.

18 Q Given that you were just -- were you appointed to
19 the case?

20 A I was appointed.

21 Q Given that you were just recently appointed to the
22 case, did you ever request a continuance to give you
23 more time to prepare?

24 A I talked with the Solicitor about it initially when
25 I got the case. My boss told me that the Highway Patrol

1 and the Solicitor, because it was a 2015 case and
2 pending and he had been out on bond for a while, they
3 started to look at it again. His previous attorney had
4 numerous cases pending, murder cases and very serious
5 cases. So they decided to reassign the case to
6 me.

7 I spoke with the Solicitor. He told me, basically,
8 that they wanted the case moved through trial or plea by
9 December. The only continuance that I could think of
10 would be to ask a General Sessions Judge for a
11 continuance. It has been my experience -- I have been
12 doing this for two or three years now -- that often
13 those continuances are not granted in cases like this.
14 I didn't want to risk us going down to the wire in
15 December, and if we didn't get a continuance, we would
16 have to go to trial.

17 I talked with the Solicitor about it. The
18 Solicitor basically told me that it would be up to a
19 General Sessions Court Judge, which to me was a major
20 risk.

21 Q Did you talk to Mr. Patterson about that risk?

22 A I did.

23 Q What I heard is that you didn't request a
24 continuance?

25 A No. I never formally requested a continuance. I

1 spoke with the Solicitor about giving me more to work
2 out a plea with him, but as far as the General Sessions
3 Court Judge, no.

4 Q So would you say that based on the three months
5 that you had the case -- would you say that you had a
6 sufficient amount of time to investigate his case?

7 A I believe so. I grew up a few miles down the road
8 from where this happened. I am very familiar with the
9 area. In looking at the MAIT team report -- I knew the
10 area fairly well. I think the thing that really hurt
11 the case was the blood draw. I believe Mark Grier, his
12 previous attorney, had done research on being clinically
13 drawn as opposed to having your abilities impaired. We
14 discussed that element and that possible defense.

15 But trying to convince 12 people when there is a
16 dead five-year-old, it's an uphill sled. I believe I
17 had enough time to investigate everything, look at
18 everything from the day of the car crash. It was a
19 terrible accident on his part.

20 From a MAIT team standpoint, they came back and
21 said that he was driving within the speed limit, but
22 his abilities were impaired because of his BAC.

23 Q Did you speak to Mark Grier about his case?

24 A I did. He told me what he had done up until that
25 point. Basically, I think Mr. Patterson was in jail for

1 about 90 days. Mark had gotten him out on bond. He got
2 the bond reduced. It had kind of been sitting in the
3 file cabinet for two years.

4 Then I believe the Highway Patrol started
5 pressuring the Solicitor. This is one case that the
6 sergeant in charge of this county had worked himself.
7 He began asking the Solicitor, "Why hasn't this come to
8 court?"

9 That is why the case was ultimately assigned to me.
10 Mark had way too many cases at that point. He didn't
11 devote enough time to it, and he felt like I could.

12 Q Mr. Payne, you testified earlier that you discussed
13 the marijuana, the THC, in Mr. Patterson's system;
14 correct?

15 A Yes, ma'am.

16 Q Do you have a copy of the guilty plea transcript?

17 A Yes, ma'am.

18 Q On Page 22 of that transcript, Line 3:

19 "The marijuana in his system we have not discussed,
20 but obviously there is a time period." I think that is
21 what you testified to. Is that what you discussed with
22 him, because it's a little different than what is in the
23 transcript.

24 A My recollection of that is that we very briefly
25 discussed it during the first meeting. We kind of

1 brushed it to the side. That is probably what I meant
2 in the transcript; that we had not discussed it in
3 detail.

4 My recollection is in the first meeting we
5 discussed the THC and the THC was in his system. We
6 kind of brushed the THC aside, because it takes 30 days
7 to get out of his system, so I wasn't overly concerned
8 if we went to trial on that issue if it came up.

9 Q So you didn't verse yourself well with the
10 mitigation? Did I hear you state that?

11 A I should have said that we did not discuss it in
12 detail instead of that we had not discussed it at all.

13 MS. MINOR: No further questions, Your Honor.

14 THE COURT: Mr. Key, anything further?

15 MR. KEY: I have a question for this witness, Your
16 Honor.

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. KEY:

20 Q Mr. Payne, how long have you been practicing?

21 A I have been practicing since May of 2016. I have
22 been a Public Defender since August of 2016.

23 Q Had you handled DUI cases before?

24 A I had handled regular DUI cases. DUI first. I had
25 never handled a felony DUI with death or great bodily

1 injury up until this case.

2 Q You testified that you did speak with Mark Grier
3 about the case?

4 A I did.

5 Q Did he catch you up to speed with everything that
6 had gone on?

7 A He did. I also spoke with my boss and other
8 attorneys as well, as far as advice on how to handle
9 these cases. As far as this specific case, Mark did
10 catch me up to speed.

11 While it's a lot of facts and figures, there is not
12 a whole lot of discovery that is in-depth. It's
13 basically a Highway Patrol reconstruction, as well as
14 the blood draw results.

15 Q Would you have been prepared to go to trial?

16 A I believe I would have been. Had he been
17 determined to go to trial, I probably would have asked
18 for a continuance. If that continuance wasn't granted,
19 I believe I could have wrangled up the experts to put up
20 a viable defense at trial or a defense to at least parts
21 of it.

22 Q Did he want to go to trial?

23 A He never expressed a desire to go to trial after
24 our initial meeting. We discussed the pros and cons of
25 trial. I told him that I felt like if we went to trial

1 and we lost the trial, he would be looking at 20 to 25
2 years. I believe he would have gotten much more if we
3 had gone to trial than he would have gotten just
4 pleading straight up.

5 Q Did you discuss with Mr. Patterson the violent
6 versus nonviolent offenses?

7 A We did. He is correct that we were trying to get
8 a nonviolent. I talked over it and over it with the
9 Solicitor and with law enforcement to try to get them to
10 reduce it to a nonviolent charge.

11 I did believe that based on his lack of a record
12 and the fact that it was his own children that were
13 involved in this, the State should have cut him a break
14 or and should have at least reduced it down to a
15 nonviolent charge. At the end of the day, he wouldn't
16 budge. I think a lot of that dealt with the sergeant
17 for the Highway Patrol who worked this case. This was a
18 case that he cared about. It's an emotional scene to
19 find two kids in a car wreck that had been severely
20 injured and one who ultimately passed away.

21 I think that driving factor just put the State in
22 a position where they did not want to negotiate
23 whatsoever in this case.

24 Q So the State never offered nonviolent?

25 A No. That was never offered. The only offer -- if

1 you could call it an offer -- is that they would stand
2 silent in regards to sentencing, which is what we ended
3 up doing.

4 Otherwise, I was told that if it went on any
5 further, if it went to December and we went to trial or
6 if he tried to drag it out more, they would be asking
7 for a significant active prison sentence.

8 So I felt like his best bet to avoid prison time or
9 to not have as much prison time is to not have the State
10 slam the table asking for prison time.

11 MR. KEY: No further questions, Your Honor.

12 THE COURT: Ms. Minor?

13 MS. MINOR: No further questions, Your Honor. The
14 Applicant rests its case.

15 THE COURT: Thank you, sir. You can step down.

16 (Whereupon, the witness exited the witness stand.)

17 THE COURT: Anything further?

18 MS. MINOR: Nothing further, Your Honor.

19 MR. KEY: Nothing from the State.

20 THE COURT: All right.

21 Give me a chance to go through the pleadings and
22 the documents I have here, and I will reach a decision,
23 and then I will have Mr. Gibson get in touch with both
24 sides about any further needs that I may have.

25 Thank you.

* * *

-- --END OF TRANSCRIPT-- --

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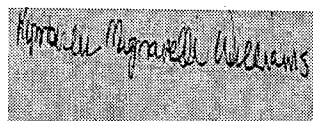
25

CERTIFICATE OF REPORTER

I, Kymberlee M. Williams, Certified Shorthand Reporter/Registered Professional Reporter for the 6th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Lancaster County, South Carolina, on the 23rd day of January, 2019.

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

This, the 31st day of July, 2019.



KYMBERLEE M. WILLIAMS, CSR/RPR

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

Lonnie E. Patterson, 374294

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SIXTH JUDICIAL CIRCUIT

2018-CP-29-0266

ORDER OF DISMISSAL

FILED
OFFICE OF CLERK
OF COURT
CLERK OF COURT
LANCASTER, SC

2019 MAY 16 AM 11:46

The matter before the Court is an action for post-conviction relief (PCR) commenced by Lonnie Patterson (Applicant) on March 8, 2018. The State submitted its return May 23, 2018. Applicant amended his PCR application on November 12, 2018, alleging ineffective assistance of counsel for: (a) failure to investigate, (b) failure to provide and review the discovery with Applicant, (c) failure to advise Applicant of the charges and the consequences of the charges, and (d) failure to discuss potential defenses and strategies available to Applicant.

An evidentiary hearing convened January 23, 2019, at the Lancaster County Courthouse before the undersigned. Applicant was present and represented by Donae A. Minor, Esquire. Assistant Attorney General Samuel Key represented the State. Applicant and his former plea counsel testified at the hearing. After hearing the testimony at the PCR hearing and a full review of the record, the Court finds, as explained below, Applicant's allegations are without merit, denies relief, and dismisses the action with prejudice.

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lancaster County Clerk of Court. In October of 2015, the Lancaster County Grand Jury indicted Applicant for felony DUI causing death (2015-GS-29-

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1293), felony DUI causing great bodily harm (2015-GS-29-1292), and child endangerment, committing certain vehicular offenses with minor in vehicle (2015-GS-29-1291). Ryan Payne, Esquire, represented Applicant. Solicitor Randy Newman and Assistant Solicitor Cassity Brewer prosecuted the case. On October 16, 2017, Applicant waived jurisdiction and pleaded guilty as indicted to all charges before the Honorable Daniel D. Hall in Fairfield County. Judge Hall sentenced Applicant to concurrent terms of imprisonment of ten years on each charge.

Applicant filed a timely notice of appeal on October 19, 2017. The court of appeals dismissed the appeal for failure to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv), SCACR, by order filed December 12, 2017. *State v. Patterson*, S.C. Ct. App. Order dated Dec. 12, 2017. The case was remitted to the lower court January 5, 2018.

II. FACTS

On August 13, 2015, Applicant was involved in a car wreck. Applicant was driving with his ten-year-old and five-year-old sons in the back seat of his car. His five-year-old was not properly restrained. Applicant veered across the centerline and off the road, striking a tree and a utility pole before finally striking a second tree which overturned the vehicle. Applicant was driving approximately fifty-seven to sixty-two miles per hour at the time he swerved off the road. Trooper Altman from Highway Patrol responded to the incident. After the children were transported from the scene, Altman spoke to Applicant. Applicant's ten-year-old son was transported to Richland County by helicopter with severe injuries, and his five-year-old son was transported to the hospital in Lancaster with severe injuries. After speaking with Applicant, Altman noticed Applicant's breath and body strongly smelled of alcohol. Additionally, Altman observed Applicant's speech was slurred and his eyes were glassy. Applicant advised Altman he had consumed three beers and three shots.

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Applicant's five-year-old son, who had been transported to Lancaster, was later transported to Charlotte, and died two days after the accident. Applicant consented to give a blood sample at the hospital. His blood-alcohol content was .228, and he also tested positive for marijuana. (Plea Tr. 12-13).

III. ISSUES

In his PCR application, Applicant alleges he is being held in custody unlawfully due to ineffective assistance of counsel and violations of his right to Due Process. Applicant amended his PCR application November 12, 2018 to assert the following allegations of ineffective assistance of counsel:

- a. Failure to investigate;
- b. Failure to provide and review the discovery with Applicant;
- c. Failure to advise Applicant of the charges against him and the consequences of the charges; and
- d. Failure to discuss possible defenses and strategies available to Applicant.

IV. PCR HEARING TESTIMONY

Applicant's Testimony

Applicant testified on his behalf at the PCR hearing and stated plea counsel was appointed to represent him about two to three months before he pleaded guilty. Applicant stated a different public defender represented him for two years before plea counsel was substituted as counsel, and he felt as though plea counsel did not have enough time to investigate and prepare for trial. Applicant recalled his initial contact with plea counsel was by telephone, and during this phone call, plea counsel indicated he was Applicant's new attorney. Applicant stated he met with plea counsel two other times before he pleaded guilty. Applicant stated plea counsel advised him he would probably be sentenced between eight to twelve years if he pleaded guilty.

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Applicant stated his case was originally supposed to appear on the December 2017 roster, but his case appeared on the October 2017 roster instead.

Applicant testified he received a copy of the discovery in his case in 2015; however, plea counsel never reviewed the discovery with him. Applicant stated he did not feel plea counsel was familiar with his case. Applicant asked plea counsel whether his charges were classified as violent or non-violent, but plea counsel did not know the answer to his question. Further, Applicant stated he and plea counsel never discussed the facts of the case. However, Applicant asked plea counsel to interview his ex-wife regarding the case, and plea counsel spoke with her.

When asked why he pleaded guilty, Applicant answered he did not know anything about the law. He also admitted he was satisfied with plea counsel at the time he pleaded, but he thought plea counsel would do more on his behalf. Applicant testified plea counsel discussed the possible sentences Applicant could receive if convicted. Applicant testified he would have opted to proceed to trial if plea counsel had more time to prepare for trial, and he felt as though a trial would have concluded with a better result. Applicant's main complaint was that he was serving violent time.

Applicant testified the State never made any plea offers, and he elected to plead straight up. Applicant stated he chose to plead guilty because plea counsel informed him that if he did not plead in October or November, the State would ask for a twenty-five-year sentence at trial. Applicant stated he waived jurisdiction so he could plead in Fairfield County rather than in Lancaster County. Applicant admitted he was placed under oath at his plea hearing, and he informed the plea court he was satisfied with plea counsel's representation; however, Applicant stated he thought he was going to receive a non-violent ten year sentence. Applicant clarified that plea counsel did not promise him he would receive a lesser sentence, but plea counsel

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thought Applicant would receive a lesser sentence. Applicant informed plea counsel he was willing to accept a ten-year, non-violent plea offer, but plea counsel was unable to contact the State to negotiate the requested offer.

Applicant admitted he was guilty of causing the accident. Applicant stated he did not agree with the State's version of the facts, but he admitted he did not mention his disagreement during the plea hearing. Finally, Applicant admitted he signed the sentencing sheet and the sheet indicated he pleaded to a violent crime; however, Applicant stated that he did not notice the sentencing sheet indicated his offense was violent until the day after he pleaded guilty.

Plea Counsel's Testimony

Plea counsel admitted his representation of Applicant was brief compared to Applicant's previously appointed counsel; however, he stated he had three months to prepare for the case and that he immersed himself in the case during those three months. Plea counsel's notes indicated he was appointed to represent Applicant on August 20, 2017, and he met with Applicant on August 29. Plea counsel stated by the time he was appointed, Applicant already had a copy of the discovery and was very familiar with the case. Plea counsel stated Applicant's voluntary blood draw indicated he had a .228 blood-alcohol level, and Applicant tested positive for marijuana. Plea counsel felt the real problem with Applicant's case was his .228 blood-alcohol level. Plea counsel stated he went over this evidence with Applicant, and Applicant was aware of the difficulties the evidence presented. Plea counsel also explained to Applicant that his surviving son would need to be a witness at trial, and Applicant did not want to put his family through a trial. Plea counsel stated at this point, he and Applicant began discussing a plea.

As for his investigation, plea counsel stated he lived in the area and was familiar with the area where the accident occurred. Plea counsel stated he reviewed the accident reconstruction

report, but the blood draw really hurt Applicant's case. Plea counsel testified Applicant's previous attorney had researched a defense based on Applicant being "clinically drunk" but not actually impaired and he reviewed previous counsel's research. Plea counsel stated he reviewed and discussed this strategy with Applicant.

Plea counsel reiterated he had enough time to prepare for the case. He stated in his review of the accident report, Applicant was traveling within the speed limit but was impaired because of his blood-alcohol level. Plea counsel admitted Applicant's case was his first felony DUI case; however, he stated he had handled regular DUI cases regularly. Plea counsel discussed Applicant's case with Applicant's previous attorney who advised plea counsel of everything he had done, and plea counsel sought advice from other attorneys within the Public Defender's office. Plea counsel recalled Applicant had been released on bond, and law enforcement began pressuring the State to resolve the case.

Plea counsel recalled discussing whether he would move for a continuance in the case with the State. Plea counsel stated the State was insistent on moving the case by December because the case had been dormant for a while. Plea counsel testified Applicant never indicated he wanted a trial. Further, plea counsel testified had Applicant wanted a trial, plea counsel would have moved for a continuance to procure expert witnesses.

Plea counsel recalled discussing with Applicant whether the sentence was classified as violent or non-violent. He further stated he negotiated with the State in an attempt to reduce the charge to a non-violent offense; however, the State never agreed and did not want to negotiate a plea offer at all. Plea counsel testified the State never offered a non-violent sentence and only offered to remain silent during sentencing. Further, the State informed plea counsel if Applicant proceeded to trial or pleaded guilty after December, it would request a significant sentence. Plea



counsel stated he felt it was in Applicant's best interest for the State to remain silent during sentencing. Finally, plea counsel testified the State honored its agreement and remained silent during sentencing.

V. DISCUSSION

The issue before the Court is whether Applicant's plea was the result of ineffective assistance of counsel. Specifically, Applicant alleges plea counsel was ineffective for: (a) failure to investigate, (b) failure to provide and review the discovery with Applicant, (c) failure to advise the charges and the consequences of the charges against Applicant, and (d) failure to discuss potential defenses and strategies available to Applicant. Applicant further claims he would not have pleaded guilty and would have insisted on proceeding to trial absent these alleged deficiencies. These allegations are properly before the Court as attacks on the knowing and voluntary nature of Applicant's plea. See *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (stating a defendant who entered a plea with the advice of counsel may only attack the voluntary and intelligent nature of the plea).

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). To prove prejudice, the applicant must show a reasonable probability he would not have pleaded guilty and would have insisted on going to trial absent plea counsel's alleged deficiency. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

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As explained below, the Court finds Applicant has failed to prove plea counsel was either deficient or prejudiced from the alleged deficiencies. Applicant knowingly and voluntarily pleaded guilty; therefore, the Court denies relief and dismisses the action with prejudice.

1. Prejudice

Applicant asserts he would not have pleaded guilty and would have chosen to proceed to trial absent plea counsel's alleged deficiencies. The Court disagrees and finds Applicant has failed to prove prejudice resulted from any of plea counsel's alleged deficiencies.

To prove prejudice, the applicant must show a reasonable probability he would not have pleaded guilty and would have insisted on going to trial absent plea counsel's alleged deficiency. *Hill*, 474 U.S. at 59. "[A] court need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies." *Strickland*, 466 U.S. at 697. "If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice . . . that course should be followed." *Id.*

At the PCR hearing, Applicant testified he pleaded guilty because he did not think plea counsel was prepared for trial. The Court finds Applicant's testimony he would have proceeded to trial not credible. However, plea counsel credibly testified Applicant wanted to plead guilty after Applicant realized his surviving son would have to testify at trial, and he did not want to put his family through a trial. The record shows Applicant waived jurisdiction to plead guilty in Fairfield County on October 16, 2017, rather than wait to plead guilty in Lancaster County in December 2017. (Plea Tr. 5). The Court is convinced by plea counsel's credible testimony Applicant did not want to put his surviving son on the witness stand and opted to plead guilty as charged. Plea counsel's PCR testimony coincides with his representations to the plea court. During the plea hearing, plea counsel represented to the plea court Applicant did not want to put

his family through a trial because he was trying to minimize the effect on his children. (Plea Tr. 16, 21). The Court finds Applicant pleaded guilty because he did not want to put his family through a trial and waived jurisdiction to plead sooner than expected because the State agreed to remain silent during sentencing.

Further, any deficiency regarding plea counsel's alleged deficient advice regarding Applicant's sentence was cured by the plea court's colloquy. See *Wolfe v. State*, 326 S.C. 158, 164, 485 S.E.2d 367, 370 (1997) (stating even if counsel gives erroneous advice, an applicant is not entitled to PCR where any misconceptions are cured by the colloquy during the guilty plea proceeding). Here, the plea court advised Applicant of the charges against him, and Applicant affirmed he understood. (Plea Tr. 5-7). The plea court also advised Applicant of his right to a jury trial, the State's burden at trial, his right to remain silent during trial, his right to cross-examine the State's witnesses at trial, and all twelve jurors would have to agree the State met its burden before he could be convicted. (Plea Tr. 7-9). Applicant affirmed he understood his rights and indicated he wished to proceed with his guilty plea. (Plea Tr. 9). Finally, the plea court made sure to advise Applicant felony DUI is classified as a serious and violent offense, and explained the consequences of such classification. (Plea Tr. 26). After being so advised, Applicant affirmed he understood the Court's explanation and affirmed he wished to proceed with the guilty plea. (Plea Tr. 26). The Court finds any alleged deficiency in plea counsel's advice was cured by the plea court's colloquy.

Because Applicant has failed to show any prejudice resulted from plea counsel's alleged deficiencies, Applicant did not receive ineffective assistance of counsel.

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2. Deficient Performance

a. Failure to Investigate

Applicant alleges plea counsel was ineffective for failing to investigate the veracity of the evidence in Applicant's case. Specifically, Applicant alleges plea counsel did not have enough time to prepare for a trial and never discussed the facts of the case with Applicant. At the PCR hearing, Applicant testified he would have gone to trial if plea counsel had more time to prepare his case. The Court disagrees.

"[C]riminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011). The Court finds plea counsel reasonably investigated Applicant's case. This finding is based on plea counsel's credible testimony at the PCR hearing and is supported by the record before the Court.

As for plea counsel not having enough time to investigate and prepare for trial, plea counsel recalled being appointed to Applicant's case on August 20, 2017, and the State was insistent on moving the case by December 2017. Plea counsel stated he had three months to prepare for a trial, and he immediately began trial preparation. Plea counsel stated he would have requested a continuance had the case gone to trial in December to procure expert witnesses, but he felt his continuance would have been denied. Plea counsel testified he felt as though he would have been prepared for trial even if the continuance was denied. Plea counsel stated he was familiar with the scene of the accident, and he reviewed all the evidence provided in discovery. Plea counsel further testified he conferred with Applicant's previously appointed counsel and other attorneys employed by the Public Defender's office seeking advice on how to

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handle the case. Plea counsel stated Applicant's .228 blood-alcohol level was the most damaging evidence in the case and there was really no applicable defense to the blood-alcohol level.

The Court finds, based on plea counsel's credible testimony, plea counsel reasonably investigated and evaluated the veracity of the evidence in the case. Therefore, plea counsel was not deficient for failing to investigate, and this allegation must be denied and dismissed with prejudice.

b. Failure to Provide and Review the Discovery

Applicant alleges plea counsel was deficient for failing to provide and review the discovery with Applicant. At the PCR hearing, Applicant testified he received a copy of the discovery, but plea counsel never reviewed the discovery with him; therefore, Applicant's assertion is his plea was not knowing and voluntary because he was unaware of the contents and meaning of the discovery he received. The Court disagrees.

The Court finds not credible Applicant's testimony plea counsel never reviewed the discovery with him. "[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*, 337 S.C. at 599, 524 S.E.2d at 624.

Plea counsel agreed with Applicant's testimony in as much as Applicant had already received the discovery before he was appointed; however, plea counsel disagreed with Applicant's assertion plea counsel never reviewed the discovery with Applicant. To the contrary plea counsel testified he reviewed the discovery with Applicant. Plea counsel also testified that by the time he was appointed to represent Applicant, Applicant was very familiar with the discovery in the case. The Court finds credible plea counsel's testimony he reviewed the

discovery with Applicant and concludes Applicant knew what evidence the discovery contained when he pleaded guilty.

The Court further relies on the plea transcript in support of its conclusion plea counsel reviewed the discovery with Applicant. Applicant affirmed to the plea court plea counsel went over the discovery with him. (Plea Tr. 9-10). "A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." *Garren v. State*, 423 S.C. 1, 12, 813 S.E.2d 704, 710 (2018) (quoting *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007)). Therefore, the Court finds plea counsel was not deficient for failing to review the discovery with Applicant because he in fact reviewed the discovery with Applicant. Accordingly, the Court denies relief and dismisses this allegation with prejudice.

c. Failure to Advise Applicant of the Charges and Consequences of the Charges

Applicant alleges plea counsel was deficient for failing to advise Applicant of the charges against him and the consequences of those charges. In support of this allegation, Applicant testified at the PCR hearing that when he pleaded guilty, he thought he would receive a ten-year non-violent sentence. The Court finds this allegation is without merit.

"[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*, 337 S.C. at 599, 524 S.E.2d at 624.

First, as addressed in the prejudice analysis in the previous section, any alleged deficiency by plea counsel for failing to advise Applicant was cured by the plea court's colloquy. *See Wolfe*, 326 S.C. at 164, 485 S.E.2d at 370 (stating even if counsel gives erroneous advice, an applicant is not entitled to PCR where any misconceptions are cured by the colloquy during the

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guilty plea proceeding). Second, plea counsel testified he made Applicant aware the State only offered to remain silent during sentencing and refused to lessen the charge.

Plea counsel testified Applicant asked him to enter plea negotiations and negotiate for a non-violent, ten-year sentence. However, plea counsel stated the State never accepted those terms or offered for Applicant to plead guilty to anything less than as charged. Plea counsel further testified the State only offered to remain silent during sentencing. Plea counsel credibly testified he conveyed this information to Applicant, and Applicant wished to plead guilty as charged. Applicant admitted plea counsel never promised him he would receive anything less than as charged. Further, at the PCR hearing, Applicant admitted he signed the sentencing sheets indicating his felony DUI charges were classified as serious, violent offenses before he entered his plea.

Based on the foregoing, the Court finds plea counsel was not deficient for failing to advise Applicant of the charges and the consequences of those charges against him. Therefore, relief is denied, and this allegation is dismissed with prejudice.

d. Failure to Discuss Potential Defenses and Strategies Available

Applicant alleges plea counsel was deficient for failing to discuss potential defenses and strategies available to Applicant. In support of this allegation, Applicant testified he and plea counsel never discussed his version of the facts or any possible defenses. The Court finds not credible Applicant's testimony plea counsel never discussed the facts or any possible defenses.

At the PCR hearing, plea counsel testified he reviewed and discussed with Applicant the evidence against Applicant and the difficulties of challenging the State's evidence. Further, plea counsel explained Applicant's surviving son would have to testify at trial, and Applicant indicated he did not want to put his family through trial. The Court finds credible plea counsel's

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testimony he discussed potential defenses and strategies with Applicant. Further, plea counsel's testimony is supported by the plea transcript. The plea court asked Applicant, "Have you [and counsel] talked about whether you have any defenses or not?" (Plea Tr. 10). Applicant answered affirmatively. (Plea Tr. 10). The Court finds plea counsel was not deficient for failing to discuss potential defenses and strategies to Applicant based on plea counsel's credible testimony he did so and Applicant's representations to the plea court. *See Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Cl. App. 2007) ("A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed."). Therefore, Applicant has failed to prove counsel was deficient on this allegation, and it shall be dismissed with prejudice.

VI. CONCLUSION

The Court finds plea counsel's representation was neither deficient nor prejudicial. Applicant pleaded guilty pursuant to the advice of plea counsel. Applicant knew the meaning and consequences of pleading guilty to the charges and voluntarily chose to do so. Applicant failed to show plea counsel was deficient for failure to investigate, failure to provide and review discovery with Applicant, failure to advise Applicant of the charges and consequences of the charges against him, or failure to discuss possible defenses and strategies available to Applicant. Further, the Court finds Applicant knowingly and voluntarily pleaded guilty because the plea court's colloquy cured any of plea counsel's alleged deficiencies. Therefore, based on the foregoing, the Court denies relief on all allegations and dismisses this PCR action with prejudice.

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

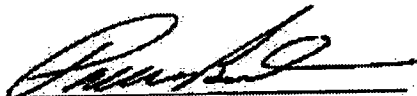
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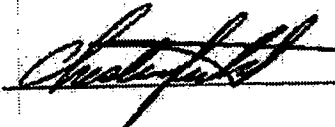
to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal 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.


PAUL M. BURCH
Presiding Judge
Sixth Judicial Circuit


Charles F. Burch, South Carolina

May 13th 2019.

STATE OF SOUTH CAROLINA)

INDICTMENT

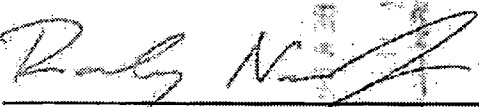
COUNTY OF LANCASTER)

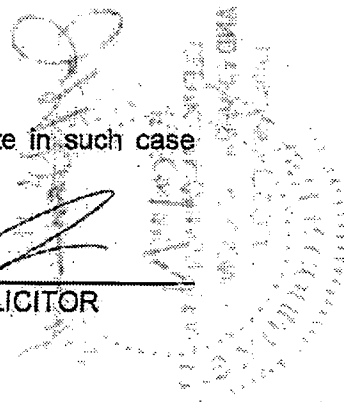
At a Court of General Sessions, convened on October 22, 2015, the Grand Jurors of Lancaster County present upon their oath:

CHILD ENDANGERMENT

That Lonnie Eugene Mauric Patterson who is eighteen years of age or older, did in Lancaster County on or about August 13, 2015, violate § 56-5-750, § 56-5-2930, or § 56-5-2945 of the Code of Laws of South Carolina, and did have one or more passengers under the age of sixteen in the motor vehicle when the violation occurred, to wit: [REDACTED] J.P., DOB: [REDACTED] 2010 and [REDACTED] J.P., DOB: [REDACTED] 2005, in violation of § 56-5-2947, *Code of Laws of South Carolina, (1976), as amended.*

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


Randy E. Newman, Jr., SOLICITOR



WITNESSES

Staehr - SCHP

Walters

ARREST WARRANT NUMBER/DOA

2015A2910100934 (DOA-8-13-15)

ACTION OF GRAND JURY

TRUE BILL

Melina Beaver

Foreperson of Grand Jury

Date: OCT 22 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-29-1291

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

vs.

Lonnie Eugene Mauric Patterson

Indictment for

Child Endangerment

SC Code: § 56-5-2947

CDR Code: 2395

Class: UNC

FILED
OFFICE OF CLERK
OF COURT

2015 OCT 22 PM 3:34

CLERK OF COURT
LANCASTER, SC

CERTIFIED TO BE A TRUE COPY

Jeff Hammond

JEFF HAMMOND
CLERK OF COMMON PLEAS
AND GENERAL SESSIONS COURT
LANCASTER COUNTY, S.C.

STATE OF SOUTH CAROLINA)

INDICTMENT

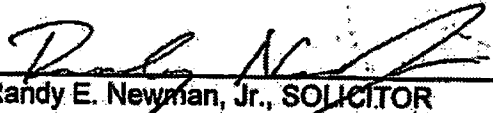
COUNTY OF LANCASTER)

At a Court of General Sessions, convened on October 22, 2015, the Grand Jurors of Lancaster County present upon their oath:

FELONY DRIVING UNDER THE INFLUENCE CAUSING GREAT BODILY INJURY

That Lonnie Eugene Mauric Patterson did in Lancaster County on or about August 13, 2015, drive a motor vehicle while under the influence of alcohol, drugs, or a combination of both, and did an act forbidden by law and/or neglected a duty imposed by law, to wit: the Defendant did travel off the left side of the roadway and struck a utility pole and a tree, which act and/or neglect proximately caused great bodily injury to [REDACTED] J.P. [REDACTED], (DOB: [REDACTED]-2010), in violation of § 56-5-2945(A)(1) *Code of Laws of South Carolina, (1976), as amended.*

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


Randy E. Newman, Jr., SOLICITOR

WITNESSES

Staehr - SCHP

+ Walters

ARREST WARRANT NUMBER/DOA

2015A2910100931 (DOA-8-13-15)

ACTION OF GRAND JURY

TRUE BILL

Melissa Bailey
Foreperson of Grand Jury

Date: OCT 22 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-29-1292

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

VS.

Lonnie Eugene Mauric Patterson

Indictment for

Felony Driving Under the Influence
Causing Great Bodily Injury

SC Code: § 56-05-2945(A)(1)

CDR Code: 0406

Class: Felony, D

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OF COURT

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CLERK OF COURT
LANCASTER, SC

CERTIFIED TO BE A TRUE COPY

JEFF HAMMOND
CLERK OF COMMON PLEAS
AND GENERAL SESSIONS COURT
LANCASTER COUNTY, S.C.

STATE OF SOUTH CAROLINA)

INDICTMENT

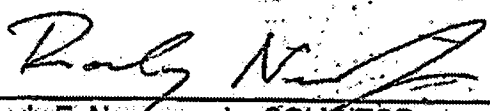
COUNTY OF LANCASTER)

At a Court of General Sessions, convened on October 22, 2015, the Grand Jurors of Lancaster County present upon their oath:

FELONY DRIVING UNDER THE INFLUENCE CAUSING DEATH

That Lonnie Eugene Mauric Patterson did in Lancaster County on or about August 13, 2015, drive a motor vehicle while under the influence of alcohol, drugs, or a combination of both, and did an act forbidden by law and/or neglected a duty imposed by law, to wit: by driving off the left side of the roadway striking a utility pole and a tree, which act and/or neglect proximately caused the death of [REDACTED] J.P. [REDACTED], DOB: [REDACTED] 2010, in violation of § 56-5-2945(A)(2) Code of Laws of South Carolina, (1976), as amended.

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


Randy E. Newman, Jr., SOLICITOR

WITNESSES

Altman - SCHP

Walters

ARREST WARRANT NUMBER/DOA

2015A2910100938 (DOA-8-17-15)

ACTION OF GRAND JURY

TRUE BILL

Meleese Bauer
Foreperson of Grand Jury

Date: OCT 22 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-29-1293

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

vs.

Lonnie Eugene Mauric Patterson

Indictment for

Felony Driving Under the Influence
Causing Death

SC Code: § 56-05-2945(A)(2)

CDR Code: 0395

Class: Felony, B

FILED
OFFICE OF CLERK
OF COURT

2015 OCT 22 PM 3:34

CLERK OF COURT
LANCASTER, SC

CERTIFIED TO BE A TRUE COPY

Jeff Hammond

JEFF HAMMOND
CLERK OF COMMON PLEAS
AND GENERAL SESSIONS COURT
LANCASTER COUNTY, S.C.