

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Certiorari to Pickens County

S.C. SUPREME COURT

Honorable Alex Kinlaw, Circuit Court Judge  
\_\_\_\_\_

JOHN DAVID SARTIN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001606  
\_\_\_\_\_

APPENDIX  
\_\_\_\_\_

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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2018-GS-39-1129
COUNTY OF PICKENS	)	
	)	
	)	
	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
JOHN DAVID SARTIN,	)	
DEFENDANT.	)	
_____	)	

August 28 and 29, 2018  
Pickens, South Carolina

B E F O R E:

THE HONORABLE PERRY H. GRAVELY, JUDGE

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

BRANDI BATSON HINTON, ESQ.  
Attorney for the Plaintiff

DOROTHY A. MANIGAULT, ESQ.  
Attorney for the Defendant

CHERYL A. SMITH  
Circuit Court Reporter

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
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There were no exhibits introduced.

P R O C E E D I N G S

TUESDAY, AUGUST 28, 2018

(WHEREUPON, proceedings commenced at 12:14 p.m.)

THE COURT: All right. Be glad to hear from you, Ms. Manigault.

MS. MANIGAULT: Thank you, Your Honor.

Your Honor, on tomorrow's docket, which is Wednesday the 29th, I have a defendant, John D. Sartin, S-A-R-T-I-N, who is in detention. Charge is assault and battery, high and aggravated nature.

I am making a motion for a continuance. I was given discovery -- continuing discovery on Monday the 27th and this morning the 28th. I have not had an opportunity to go to the stockade to let the defendant view or hear the tapes that have been given to me, so I'm asking for a continuance in that case.

THE COURT: What's the nature of the -- what did you receive?

MS. MANIGAULT: It's an assault charge that is alleged to have occurred in the jail itself, in the Pickens County jail. He's now moved to the stockade.

MS. HINTON: I think in solitary.

THE COURT: Usually they'll -- usually that's a benefit when they move you to the stockade. You've been extra good.

1 MS. HINTON: I think he's in lockdown.

2 And, Judge, just a point of clarification, I did  
3 provide a two-minute jail call to Ms. Manigault on Monday.  
4 Admittedly, that was when I found it. It is a two-minute  
5 call, but I did admittedly give it to her Monday.

6 Today I did not give her discovery. It was a  
7 restitution amount. It was a copy of bills for the  
8 purpose of restitution if he was convicted. So that's, I  
9 don't think, technically a discovery issue, but I did give  
10 her a two-minute jail call.

11 I mean, we're prepared to go forward. I do know that  
12 Ms. Manigault received the case from Jennifer Coyle not  
13 all that long ago, but the State is prepared to go  
14 forward.

15 MS. MANIGAULT: I was appointed July 2018.

16 THE COURT: I mean, I don't think the -- I mean, the  
17 discovery issues, I mean, it sounds like maybe a  
18 two-minute jail call. I mean, if that was -- you know,  
19 every time they got a jail call and had -- and provide it  
20 to the other side, I mean, people could play around with  
21 that and wait till the day before trial every time. But,  
22 I mean, are you ready to go to trial? Have we given you  
23 the opportunity to discuss this with your client?

24 MS. MANIGAULT: Your Honor, the discussion would be  
25 tomorrow because I am also scheduled for Laurens County

1 General Sessions, a guilty plea. It's supposed to be this  
2 afternoon, but I have to call and let them know I can't be  
3 there. So I just need the opportunity to get to this guy.

4 And I will tell the Court that he is not -- from my  
5 two, three discussions with him, he is not the most  
6 cooperative client.

7 THE COURT: As opposed to your other ones this week.

8 MS. MANIGAULT: Of course.

9 MS. HINTON: And, Judge, the only other thing, and I  
10 know Ms. Manigault wasn't involved at the time that this  
11 happened, but we did have a hearing in front of Judge  
12 Miller or Judge Barber with Ms. Coyle, and Mr. Sartin is  
13 very difficult. And he was adamant that he be put on the  
14 trial docket and that he be put on the trial docket  
15 immediately, which is a lot of the reason why he's on the  
16 August trial docket. So just to cover her, I don't know  
17 if this is something that we need to bring him for to have  
18 his opinion on the record. I don't know. I just wanted  
19 to bring that to the Court's attention.

20 THE COURT: And, I guess -- yeah. Because I'm  
21 wondering, this is like a -- I mean, this is a March 2018  
22 case.

23 MS. HINTON: Right. He's ---

24 THE COURT: I mean, if he's adamant about going  
25 forward, I don't mind accommodating him. I don't want to

1 put you in a box if you need some time to talk to him. We  
2 could work around that a little bit.

3 MS. MANIGAULT: I'm going to need time, Your Honor.  
4 I just didn't ---

5 THE COURT: We can start at 9:45.

6 MS. MANIGAULT: Thank you.

7 I have visited him at the detention center and at the  
8 stockade and have not gotten really far. He has all the  
9 discovery. This is the fourth time I've given it myself  
10 to make sure. But he's just not cooperative. I'm asking  
11 the Court for a continuance or start the trial at 10:00 or  
12 whatever, no later than 9:00 so he and I can get here.

13 THE COURT: I'll work with you on that, okay, as far  
14 as the timing of it, whatever you need there. But, you  
15 know, if he's requesting it move forward, I mean, that's  
16 -- I mean, then do we get in a -- you know, if we delay it  
17 any further, do we get into a speedy trial issue?

18 You know, he's made the request. Unless you tell me  
19 otherwise, I'm going to go ahead and have it set for  
20 tomorrow.

21 MS. MANIGAULT: Yeah. I can't tell you otherwise.

22 THE COURT: Right. I mean, I'll let you talk to him  
23 again. But, I mean, we can revisit this tomorrow if  
24 needed.

25 MS. MANIGAULT: All right. Thank you.

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MS. HINTON: So I'm sorry. Your Honor, what time do you want us?

THE COURT: Let's start at 10:00. But, I mean, that's -- I mean, that should give you plenty of time, shouldn't it?

MS. MANIGAULT: Yes, sir.

THE COURT: All right.

(WHEREUPON, proceedings concluded at 12:19 p.m.)

\* \* \* \* \*



1 prescription?

2 DEFENDANT SARTIN: Yes, sir.

3 THE COURT: And are you taking it as the doctor  
4 prescribed it?

5 DEFENDANT SARTIN: Yes, sir.

6 THE COURT: Does it cause you any problems as far as  
7 understanding our conversation, you understand what's  
8 going on or making any decisions?

9 DEFENDANT SARTIN: No, sir.

10 THE COURT: All right. Do you have any health or  
11 mental issues which would keep you from understanding  
12 what's going on here today?

13 DEFENDANT SARTIN: No, sir.

14 THE COURT: All right. You're represented by Dorothy  
15 Manigault. Have you had sufficient time to talk with her  
16 about your case this morning before today? I know it's my  
17 understanding you've had a couple of attorneys, haven't  
18 you?

19 DEFENDANT SARTIN: Yes, sir.

20 THE COURT: And I realize sometimes that just  
21 happens, and I know it's no fault of yours. From my  
22 understanding, it's just a changing of personnel. But do  
23 you feel like that you've had sufficient time then to talk  
24 to Ms. Manigault about your case?

25 DEFENDANT SARTIN: Yes, sir. She's done an excellent

1 job.

2 THE COURT: Okay. Here's my next question. Are you  
3 satisfied with her representation of you?

4 DEFENDANT SARTIN: Yes, sir.

5 THE COURT: All right. Any complaints against  
6 Ms. Manigault or anybody in her office?

7 DEFENDANT SARTIN: No, sir.

8 THE COURT: All right. We have a charge here of  
9 assault and battery in the first degree which carries up  
10 to ten years. Do you understand that charge?

11 DEFENDANT SARTIN: Yes, sir.

12 THE COURT: And how do you wish to plead?

13 DEFENDANT SARTIN: I plead guilty, but I was told I  
14 would get a three-year sentence if I plead.

15 THE COURT: All right. And I'll go through that.  
16 Because my understanding, it's a negotiated sentence. So  
17 I'll discuss that with you.

18 But you are pleading guilty to that.

19 DEFENDANT SARTIN: As long as I'm ---

20 THE COURT: Right. That's -- all right. And I will  
21 go through -- okay. Let me go through that part then  
22 right now. A negotiated sentence means if I accept the  
23 negotiated sentence -- which tell me what the negotiated  
24 sentence is.

25 MS. HINTON: Your Honor, it's ten suspended to three

1 followed by probation and restitution. And I believe  
2 Ms. Manigault was asking for PTUP on the probation.

3 THE COURT: All right. Okay. And I'll hear from  
4 him, kind of go through some questions, and I'll give you  
5 a chance to tell me whatever you need to tell me, all  
6 right?

7 Okay. You've heard that's the -- a negotiated  
8 sentence, in other words, that's an agreement between the  
9 Solicitor's Office, your attorney and you, and then  
10 basically comes down to either I accept it or I don't,  
11 okay?

12 DEFENDANT SARTIN: Yes, sir.

13 THE COURT: If I don't accept it, then I will let you  
14 stand down and go on, but it's not like I can change that.  
15 It's either I take the agreement or I don't, okay?

16 So -- but you understand -- so you're pleading guilty  
17 in light of the agreement that you've entered into.

18 DEFENDANT SARTIN: Yes, sir. I was also told that  
19 she was going to dismiss the rest of my charges ---

20 THE COURT: Okay.

21 DEFENDANT SARTIN: --- in order to plead guilty to  
22 this.

23 THE COURT: Is that part of the agreement as well?

24 MS. HINTON: Yes, Your Honor.

25 THE COURT: Okay. All right. Other than what we've

1 discussed and based on that, you're pleading guilty with  
2 those conditions that we just discussed.

3 DEFENDANT SARTIN: Yes, sir.

4 THE COURT: All right. Other than those terms, has  
5 anybody promised you anything else to plead guilty?

6 DEFENDANT SARTIN: No, sir.

7 THE COURT: Has anybody threatened you to plead  
8 guilty?

9 DEFENDANT SARTIN: No, sir.

10 THE COURT: Are you pleading guilty freely and  
11 voluntarily?

12 DEFENDANT SARTIN: Yes, sir.

13 THE COURT: Okay. Now, this matter has been indicted  
14 by the grand jury, true billed, so that's not an issue  
15 there.

16 All right. You have certain constitutional rights  
17 which you're giving up by entering this plea. All right.  
18 You have a right to a jury trial. In fact, we have a jury  
19 sitting out there in the hallway ready to proceed with  
20 your trial. You also have a right to make the State prove  
21 its case against you beyond a reasonable doubt, and you're  
22 presumed innocent up to that point. You have a right to  
23 confront all the witnesses that the State has against you,  
24 you have a right to examine all the evidence, and finally,  
25 you have a right to remain silent. And what that means is

1 if you decided to go to trial and you decide not to  
2 testify, nobody can make you testify, and I would instruct  
3 this jury the fact that you didn't testify, they could not  
4 use that, consider that in any way because the State would  
5 still have their burden.

6 You understand each of your rights?

7 DEFENDANT SARTIN: Yes, sir.

8 THE COURT: You understand that you're giving these  
9 rights up by pleading guilty?

10 DEFENDANT SARTIN: Yes, sir.

11 THE COURT: Okay.

12 DEFENDANT SARTIN: Sir, I've got a question. Do you  
13 know how long I will be on probation?

14 THE COURT: We'll be talking about that here in just  
15 a minute, all right? Yeah. We'll talk about that.  
16 That's kind of the end game here. That's what I've got to  
17 figure out. You all have negotiated the amount of the  
18 sentence, and probation, with my understanding, the amount  
19 of probation will be up to me, and that's what I want to  
20 hear from you and your attorney about, okay?

21 All right. And you also realize you have a right to  
22 appeal your plea and the sentence, but you'd have to do so  
23 in writing within ten days from today; do you understand  
24 that?

25 DEFENDANT SARTIN: Yes, sir.

1 THE COURT: All right. Now I'm going to ask the --  
2 well, let me ask you this. Ms. Manigault, have you had  
3 sufficient time to talk with Mr. Sartin about his charge  
4 and any defenses or issues that he has?

5 MS. MANIGAULT: Yes, sir.

6 THE COURT: You've discussed with him his rights, you  
7 believe he understands those rights, he's giving those  
8 rights up freely and voluntarily?

9 MS. MANIGAULT: Yes, sir.

10 THE COURT: All right. Mr. Sartin, I'm going to hear  
11 the facts -- I'm going to ask the solicitor to tell me the  
12 facts. And part of this in a guilty plea is I want to --  
13 I'm going to ask you, okay, you've heard those facts, is  
14 that what happened and you agree with those facts. So let  
15 me hear from her and then I'll hear -- I'll give you the  
16 opportunity to tell me whatever you need to at some point.  
17 All right.

18 MS. HINTON: Thank you.

19 Your Honor, this occurred on March 26, 2018, at the  
20 Pickens County Law Enforcement Center within Pickens  
21 county. The defendant and the victim, Adam Griggs, were  
22 located in the same block. A verbal altercation ensued  
23 and then a physical altercation ensued where Mr. Sartin  
24 punched the victim in the face at least once resulting in  
25 a broken orbital bone and resulting in some vision issues

1 to Mr. Griggs' eyes. And that is the facts as the State  
2 would present, Your Honor.

3 THE COURT: Okay. Mr. Sartin, do you believe that's  
4 what the State can prove if they went forward in your  
5 case?

6 DEFENDANT SARTIN: Yeah. They can prove that, but  
7 there's a little more to it. I mean, I am guilty of  
8 assaulting. Yeah. I did hit him, but I was being lynched  
9 in a cell. And I pushed to try to get help, pushed the  
10 button, asked for a guard to come and move me and they  
11 wouldn't. The guy continued. He spit in my face,  
12 tore pictures up, threw my mat on the floor, and when he  
13 spit on me again, I did hit him.

14 THE COURT: All right. And based on everything, you  
15 still wish to plead guilty.

16 DEFENDANT SARTIN: Yeah. I'm guilty.

17 THE COURT: Okay. All right. I'll accept your plea.  
18 I find it's been knowingly, intelligently and voluntarily  
19 made with the advice of competent legal counsel with whom  
20 you've indicated you're satisfied and that there's a  
21 substantial, factual basis for the plea.

22 Has the Victims' Rights Act been complied with?

23 MS. HINTON: Yes, Your Honor.

24 THE COURT: All right. Mr. Sartin, in addition, you  
25 have signed a restitution order, and you waive your right

1 to a hearing, and you have agreed to that restitution  
2 order as well.

3 DEFENDANT SARTIN: Yes, sir.

4 THE COURT: All right. Okay.

5 DEFENDANT SARTIN: Is there some kind of way I can  
6 skip the restitution? I'd rather do that if I could.

7 THE COURT: Well, I'm sure ---

8 DEFENDANT SARTIN: \$20,000 is a lot of money to pay.

9 THE COURT: It is. All right.

10 MS. HINTON: And, Your Honor, I'm sorry. One other  
11 thing. He has 295 days credit.

12 THE COURT: Okay. All right. Prior record?

13 MS. HINTON: Yes, Your Honor. He has a 2003 assault  
14 and battery third and resisting arrest; 2005, CDV first  
15 offense; 2007, receiving stolen goods; 2014, ABHAN; and  
16 then out of North Carolina, 2009, assault on a female,  
17 second degree, trespassing and assault with a deadly  
18 weapon.

19 THE COURT: All right. Mr. Sartin and Ms. Manigault,  
20 I'll be glad to hear from you.

21 MS. MANIGAULT: Thank you, Your Honor.

22 Your Honor, as the Court has heard, my client is  
23 32 years old. He went to the 12th grade. Didn't graduate  
24 but did get his GED. He has worked in construction most  
25 of his life.

1           He tells me that he has been to mental health  
2 counseling maybe three or four months. The last time he  
3 went may be a year ago. He is presently on medication  
4 from the jail. His condition is anxiety, depression and  
5 bipolar. I have no question about his competency when I  
6 talked with him, and I have no question about his  
7 competency today either.

8           Your Honor, we'd ask the Court to accept the  
9 negotiated sentence of ten years suspended to three years,  
10 credit for time served of 295 days, which is a little bit  
11 short of ten months, five days short. But we'd ask the  
12 Court to accept that recommendation.

13           And we're asking the Court for 24 months of probation  
14 in this case. He's going to make an effort to try to pay  
15 the restitution. He is concerned that he won't be able to  
16 pay the entire \$20,000 as is listed, but he's asking the  
17 Court for a short probationary sentence.

18           THE COURT: All right. Mr. Sartin, anything you want  
19 to tell me?

20           DEFENDANT SARTIN: I'll -- I'll try my best to pay  
21 the restitution off. I mean, I've got a job. If I got  
22 out of jail today, I'd have a job. My sister, I've got  
23 sisters, and both their husbands run their own companies.

24           THE COURT: You're probably a hard worker, aren't  
25 you?



1 drug and alcohol testing, and I've also signed the order  
2 of restitution.

3 (WHEREUPON, proceedings concluded at 10:22 a.m.)  
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA            )  
COUNTY OF GREENVILLE            )

I, CHERYL A. SMITH, Official Court Reporter for the Thirteenth 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 Pickens County, South Carolina, on the 28th and 29th day of August, 2018.

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

January 22, 2019

Cheryl A. Smith

Cheryl A. Smith, CVR-M  
Court Reporter

FORM 5

2018-CP-39-1320

IN THE COURT OF COMMON PLEAS  
2018 DEC 11 P 2:43

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF )  
 )  
John David Sartin )  
Full name and prison number (if any) of Applicant )  
 )  
v. )  
 )  
State of South Carolina )  
 )

CLERK OF COURT  
PICKENS COUNTY  
SOUTH CAROLINA  
APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make 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 Pickens County Jail/LEC
- 2. Name and location of Court which imposed sentence Pickens County General Sessions
- 3. Name(s) of co-defendant(s) (if any) None
- 4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

- (a) Assault 1st (2018#3910100329)
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

- 5. The date upon which sentence was imposed and the terms of the sentence: 8-29-2018
- (a) 10 years suspended to 3 years + 5 years probation
- (b) \_\_\_\_\_

(which I didn't agree to)

- (c) \_\_\_\_\_
- 6. Check whether a finding of guilty was made:
  - (a) after a plea of guilty  \_\_\_\_\_
  - (b) after a plea of not guilty \_\_\_\_\_
  - (c) after a plea of nolo contendere \_\_\_\_\_
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?  
*I asked my lawyer to but she refused to*
- 8. If you answered "yes" to (7), list:
  - (a) the name of each Court to which you appealed: *NA*
    - i. \_\_\_\_\_
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (b) the result in each such Court to which you appealed: *NA*
    - i. \_\_\_\_\_
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (c) the date of each such result: *NA*
    - i. \_\_\_\_\_
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (d) if known, citations of any written opinion or orders entered pursuant to such results: *NA*
    - i. \_\_\_\_\_
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
- 9. If you answered "no" to (7), state your reasons for not so appealing: *I only had (a) Ten days*
  - (a) \_\_\_\_\_ *to appeal from the guilty plea, I asked my lawyer to place the*
  - (b) \_\_\_\_\_ *appeal in with the court and she never did it*
  - (c) \_\_\_\_\_
- 10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) ineffective assistance of counsel
- (b) subject matter jurisdiction
- (c) violation of constitutional rights  
Deliberate indifference

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

- (a) ineffective assistance of counsel
- (b) subject matter jurisdiction
- (c) violation of constitutional rights

12. Prior to this application have you filed with respect to this conviction: No

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

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

(a) ...the specific nature thereof:

- i. [scribble]
- ii. [scribble]
- iii. [scribble]
- iv. [scribble]

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

- i. [scribble]
- ii. [scribble]
- iii. [scribble]
- iv. [scribble]

(c) the disposition thereof:

- i. [scribble]
- ii. [scribble]
- iii. [scribble]

- iv. ~~NA~~
- (d) the date of each such disposition
  - i. ~~NA~~
  - ii. ~~NA~~
  - iii. ~~NA~~
  - iv. ~~NA~~
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
  - i. ~~NA~~
  - ii. ~~NA~~
  - iii. ~~NA~~
  - iv. ~~NA~~

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. ~~NA~~
  - ii. ~~NA~~
  - iii. ~~NA~~
- (b) the proceedings in which each ground was raised:
  - i. ~~NA~~
  - ii. ~~NA~~
  - iii. ~~NA~~

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

- (a) ineffective assistance of counsel
- (b) subject matter jurisdiction
- (c) violation of constitutional rights

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? NA
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NA
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

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

- (a) the name and address of each attorney who represented you:
  - i. Deethy Manigault 522 N. Church St.
  - ii. [REDACTED] Greenville, S.C. 29601
  - iii. [REDACTED]
- (b) the proceedings at which each such attorney represented you:
  - i. Plea
  - ii. Sentencing
  - iii. \_\_\_\_\_

- 19. State clearly the relief you seek in filing this application: I want my sentence overturned and given a trial and a decent lawyer or time served with the 3 year sentence if I have
- 20. Are you now under sentence from any other court that you have not challenged? NO  
*done July 2019*

STATE OF SOUTH CAROLINA )

County of )

*John Sartin*

VERIFICATION

2018 DEC 11 10 24 AM  
SOUTH CAROLINA

I, *John Sartin*, 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.

*John Sartin* *John Sartin*

SWORN to and subscribed before me this 3rd  
day of December, 2018.

*Catherine R. Connor* (L.S.)  
Notary Public

My Commission Expires: December 22, 2016

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

I, John Santin, 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:

2018 DEC 11 2 46  
CLERK OF COURT  
SOUTHERS COUNTY  
SOUTH CAROLINA

- (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.

John Santin John Santin  
Applicant

SWORN or affirmed to and subscribed before me this  
3rd day of December, 2018.

Catherine A. Amos  
Notary Public

My Commission Expires: December 23 2018

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF PICKENS )

IN THE COURT OF COMMON PLEAS

2019 APR -4 P 3 35

John David Sartin, #307173 )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent )  
 \_\_\_\_\_ )

CLERK OF COURT  
 PICKENS COUNTY  
 SOUTH CAROLINA

AMENDED/SUPPLEMENTAL  
 APPLICATION FOR  
 POST-CONVICTION RELIEF

2018-CP-39-1320

After discussions with the applicant, the applicant, by and through his attorney, Don A. Thompson, would amend/supplement his application for post-conviction relief filed on December 11, 2018, by adding the following specific allegations to his original allegation of ineffective assistance of counsel:

1. Counsel would not provide applicant with all of his discovery in a timely manner.
2. Counsel never showed applicant a video of the incident which applicant believes would have been crucial to his defense. Applicant is further informed and believes counsel never obtained a copy of the video of the incident.
3. Counsel would not talk to witnesses that applicant wanted her to talk to, which applicant believes would have been crucial to his defense.
4. Counsel never discussed a lesser charge with applicant.
5. Counsel coerced applicant into entering a guilty plea by telling him that:

- (a) There was new evidence that the victim had lost his eye. Applicant later learned that this was not true.
  - (b) He would get a sentence of three years with no probation.
  - (c) He would go up for parole and get paroled right after sentencing.
6. Counsel refused to file an appeal even though he asked her to do so.

RESPECTFULLY SUBMITTED,



---

Don A. Thompson (S.C. Bar # 5545)  
Attorney for the Applicant  
2131 Woodruff Road  
Suite 2100, #292  
Greenville, S.C. 29607

Greenville, S.C.

April 2, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
	)	
John David Sartin, #307173,	)	Case No.: 2018-CP-39-1320
	)	
Applicant,	)	
	)	<b>RETURN, PARTIAL MOTION TO</b>
v.	)	<b>DISMISS, AND MOTION FOR MORE</b>
	)	<b>DEFINITE STATEMENT</b>
State of South Carolina,	)	
	)	
Respondent.	)	
_____)		

Respondent, making its Return to the application for post-conviction relief filed on December 11, 2018, would respectfully show this Court:

I. Procedural History

John David Sartin (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Pickens County Clerk of Court. During its August 2018 term, the Pickens County Grand Jury indicted Applicant for assault and battery of a high and aggravated nature (ABHAN) (2018-GS-39-1129). Dorothy A. Manigault, Esquire, represented Applicant on these charges. Assistant Solicitor Brandu Batson Hinton, of the Thirteenth Circuit Solicitor’s Office, prosecuted the case. On August 28-29, 2018, Applicant appeared before the Honorable Perry H. Gravely and pled guilty to the lesser-included offense of first-degree assault and battery. Pursuant to a negotiated sentence, Judge Gravely sentenced Applicant to a term of imprisonment of ten years, provided upon the service of three years, the balance would be suspended to five years’ probation. Applicant did not appeal his plea or sentence.

II. Factual History

Applicant and Adam Griggs were located in the same block of the Pickens County Law Enforcement Center. Tr. 14. On March 26, 2018, a verbal altercation ensued between the two, and

Applicant punched Griggs at least once in the face. Tr. 14. As a result of the hit to the face, Griggs sustained a broken orbital bone and problems with his eyes. Tr. 14-15.

### III. Current Application

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on:

1. Ineffective Assistance of Counsel;
  - a. I only had (10) Ten days to appeal from the guilty plea, I asked my lawyer to place the appeal in with the court and she never did.
2. Subject Matter Jurisdiction;
3. Violation of Constitutional Rights; [and]
4. Deliberate Indifference.

Other than alleging plea counsel did not appeal his conviction or sentence, Applicant wholly fails to set forth any facts to support his general allegations.

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

Additionally, Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this post-conviction relief application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. *See also* Rules 15(a)-(b), SCRPC. 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 post-conviction relief hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

#### IV. Ineffective Assistance of Counsel

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a post-conviction relief action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland v. Washington*, 466 U.S. 668. First, Applicant must prove counsel's performance was deficient. *Id.*; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the

proceeding would have been different.” *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. In order to satisfy the prejudice prong of this test following a guilty plea, the applicant “must show that there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.” *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

#### ***Failure to File an Appeal***

Applicant alleges plea counsel was ineffective for failing to appeal his guilty plea after being requested to do so. Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either: (1) that a rational defendant would want to appeal or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. *Roe v. Flores-Ortega*, 528 U.S. 470 (2000). Absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. *Turner v. State*, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008). For example, “one extraordinary circumstance which would require counsel to advise a defendant of the right to appeal from a guilty plea would arise when the defendant inquires about an appeal.” *Weathers v. State*, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995). Moreover, in order to establish he was prejudiced by counsel’s failure to file an appeal, Applicant must show he would have appealed absent counsel’s deficient performance. *See Roe*, 528 U.S. at 484. Here, alleges he asked plea counsel to file an appeal from his guilty plea, but wholly fails to provide this Court with any specific information or documentation of that request.

Respondent submits Applicant can satisfy neither requirement of the *Strickland* test, particularly in light of Applicant’s complete failure to list any facts to support his general allegation of ineffective assistance of counsel. 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. Due Process

Applicant also alleges he was denied due process of law based on general allegations his constitutional rights were violated. 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), SCRCF, 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), SCRCF, 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. Subject Matter Jurisdiction

Applicant's allegation regarding jurisdiction are without merit. An applicant may challenge the subject matter jurisdiction of the trial court and such a claim is one that may be raised at any time. *See Brown v. State*, 343 S.C. 342, 540 S.E.2d 846 (2001), *overruled in part by Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005). However, "[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters." *Gentry*, 363 S.C. at 101, 610 S.E.2d at 499. *See also* S.C. Const. Art. V, § 7. Thus, Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Applicant was indicted by the Pickens County Grand Jury for ABHAN, and the indictment alleges the criminal offense occurred in Pickens County. Moreover, Applicant was prosecuted for these charges in Pickens County Court of General Sessions. Applicant wholly fails to set forth any reason why his case was of a class over which the circuit court did not have authority to preside. Accordingly, Respondent submits this allegation should be summarily dismissed.

## VII. Motion for More Definite Statement

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VIII. Denial of All Other Claims

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

IX. Conclusion and Request for Evidentiary Hearing

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

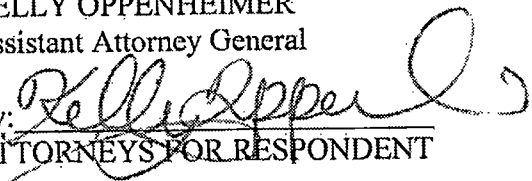
Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

KELLY OPPENHEIMER  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

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

February 26, 2019

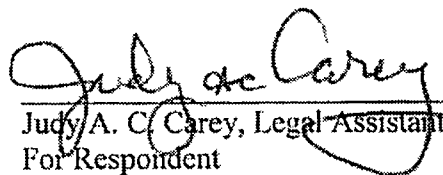
STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS	)	
	)	
	)	2018-CP-39-1320
	)	
JOHN DAVID SARTIN, 307173	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

---

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, Partial Motion to Dismiss, and Motion for More Definite Statement** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Don A. Thompson, Esquire**  
**107 Smithwood Court**  
**Simpsonville, SC 29681**

DATED this 26<sup>th</sup> day of February, 2019.

  
 Judy A. C. Carey, Legal Assistant  
 For Respondent



I N D E X

(AW) - Denotes Applicant's Witness  
(RW) - Denotes Respondent's Witness

Page No.

(AW) JOHN DAVID SARTIN:

Direct Examination by Mr. Thompson.....6  
Cross-Examination by Mr. Smith.....18  
Examination by the Court.....29

(RW) DOROTHY A. MANIGAULT:

Direct Examination by Mr. Smith.....30  
Cross-Examination by Mr. Thompson.....49

INDEX (CONTINUED)

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
	(Applicant's Exhibits)		
A-1	Letter dated 9/6/18.....	18.....	18
	(Respondent's Exhibits)		
R-1	Letter dated 8/29/19.....	47.....	47

All Exhibits were retained by the Clerk of Court for Pickens County.

P R O C E E D I N G S

1 THE COURT: Yes, sir, whenever you're ready.

2 MR. SMITH: Okay. May it please the Court.

3 THE COURT: All right.

4 MR. SMITH: This is the case of John David Sartin v.  
5 State of South Carolina, case number 2018-CP-39-1320.

6 Mr. Sartin's presently confined in the South Carolina  
7 Department of Corrections pursuant to orders of commitment  
8 of the Pickens County Clerk of Court. During its  
9 August 2018 term, the Pickens County Grand Jury indicted  
10 the Applicant for assault and battery of a high and  
11 aggravated nature.  
12

13 Dorothy Manigault represented the Applicant on these  
14 charges. Assistant Solicitor Brando [sic] --

15 UNIDENTIFIED MALE: Brandi.

16 MR. SMITH: -- Brando Hinton of the Thirteenth  
17 Circuit Solicitor's Office prosecuted the case.

18 On August 28th through 29th of 2018, the Applicant  
19 appeared before the Honorable Perry Gravely and pled  
20 guilty to the lesser included offense of first degree  
21 assault and battery. Pursuant to a negotiated sentence,  
22 Judge Gravely sentenced the Applicant to a term of  
23 imprisonment of 10 years, provided upon the service of  
24 three years. The balance would be suspended to five years  
25 of probation. The Applicant did not appeal.



DIRECT EXAMINATION

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BY MR. THOMPSON:

Q Mr. Sartin, you're presently confined where?

A At Kershaw Correctional Institution.

Q And that's on a charge of assault and battery first degree?

A Yes, sir.

Q Is that the charge in Pickens County that you pled to?

A Yes, sir.

Q Okay. And what sentence did you receive on that?

A I received a 10 year, suspended to three years with five years probation, plus \$20,000 restitution.

Q Okay. Now, you've -- you've filed a post-conviction relief application in this matter, have you not?

A Yes, sir.

Q Okay. Now, let me go back and ask you a little bit just to make sure you want -- you're set to max out your sentence June or July of this year?

A July, sir, July 1st.

Q July of this year.

You understand, do you not, that if this were to be granted, you would go back to square one and start over?

A Yes, sir.

Q Okay. Do you still want to go forward knowing that?

1 A Yes, sir.

2 Q Okay. And -- and by starting over, I mean, you'd go  
3 back to the Pickens jail. You'd have to post bond to get  
4 out, the whole thing.

5 A Yes, sir. I understand.

6 Q Okay. And you still want to go forward?

7 A Yes, sir.

8 Q All right. You were arrested on this and held in the  
9 Pickens jail; is that correct?

10 A Yes, sir.

11 Q Did you ever make bond?

12 A No, sir.

13 Q Okay. So from the time of your arrest until your  
14 guilty plea, you were in jail?

15 A Yes, sir.

16 Q Okay. Now, Ms. Manigault is -- is the attorney that  
17 represented you at the plea; is that correct?

18 A She's the third attorney I had that represented me,  
19 but, yeah, she is.

20 Q So you had three attorneys during the course of that  
21 time?

22 A With all of my charges together, I had three  
23 different attorneys. I had Jennifer Coyle before her and  
24 then John DeJong.

25 Q Okay. How long were you in jail?

1 A Roughly about 10 months.

2 Q Okay. Now, once Ms. Manigault became your attorney,  
3 did she come see you at the jail?

4 A She came to the jail. And she dropped off the motion  
5 of discovery with me. But she never went over it with me.  
6 She just dropped it off.

7 Q Okay. Did she drop off a complete motion of  
8 discovery?

9 A Nah. It was little pieces at a time. Each time I  
10 got closer to court -- it was like a game she was playing.  
11 I would get another piece of the motion, like she was  
12 playing some kind of game.

13 Q Okay.

14 A But the motion, she never really went over it with  
15 me. She would bring it, drop it off, say, Here's your  
16 transcripts for the hospital, here you go, look at this.  
17 I mean, she never went over it with me personally herself.

18 Q Okay. Now, let's -- let's back up just a minute.  
19 Tell me what happened that caused you to get charged for  
20 this.

21 A What happened for me to catch this charge, me and my  
22 roommate, which is Adam Griggs [phonetic], the guy that's  
23 supposed to be the victim, we had got into a verbal  
24 altercation over the shower. And Mr. Griggs became  
25 violent when I stepped into the cell. And then another

1       guy came in there. The other guy hit me. Mr. Griggs  
2       attacked me. And I hit him back, I thought. It was his  
3       conduct that brought the action on, really.

4       Then another inmate came in after the first one  
5       stepped out. And I fought with them. Then I got outside  
6       the cell. They busted my nose and my mouth. And I went  
7       and pushed a button and asked the officer to come and  
8       remove me out of the cell. The officer would not come  
9       remove me.

10       Mr. Griggs continued to be violent toward me,  
11       aggressive, cussed me, tore my pictures off the wall, tore  
12       my letters up, my mail, threw my mail [phonetic] into a  
13       puddle of water. Then he attempted to hit me again, spit  
14       in my face. And when he did that, I -- I hit him.

15       Q     Okay. Did you tell Ms. Manigault this?

16       A     Not really. I mean, she really didn't seem  
17       interested in it. But I didn't know. She asked the Judge  
18       for a continuance order the day prior before I was  
19       supposed to go to trial. So maybe she was wanting to go  
20       over that with me, but she never did.

21       Q     Okay. Well, I was going to say, why did you not tell  
22       her this?

23       A     I never had the opportunity to. She'd come to the  
24       jail and leave. Like, as soon as she come over there,  
25       she'd drop my stuff off and say, I'll see you next time.

1 I'll see you when you get to court.

2 Q Did she ever discuss with you whether or not you had  
3 a defense in this matter?

4 A No, not really. She just dropped my material off. I  
5 guess she thought I went to law school, or something. I  
6 don't know.

7 Q Okay. Do you understand whether or not there's a  
8 video in this matter?

9 A From my warrant -- Officer William Oggenfuss is the  
10 officer that signed the warrant. He works at the jail. I  
11 see him on a daily basis. And he told me there was a  
12 video from the cell. He said it might help me in my case  
13 showing where there was other inmates that were  
14 involved --

15 MR. SMITH: Objection. This is hearsay, Your Honor.

16 THE COURT: I'll sustain the objection.

17 THE WITNESS: I --

18 BY MR. THOMPSON:

19 Q You -- you -- let's -- let's stop right there.

20 A Okay.

21 Q You understand there was a video in the case?

22 A Yes, sir. It's on my warrant.

23 Q It's on your warrant?

24 A Yeah.

25 Q Did you ever see a video?

1 A No. A video was never showed to me. And I asked  
2 Jennifer Coyle and Dorothy Manigault when could I see my  
3 video. And I -- I never seen it.

4 Q Okay. Were there some witnesses that you thought  
5 Ms. Manigault should talk to on your behalf?

6 A Yes, sir. There -- there was -- there was several  
7 witnesses in the cell. But I had one or two in  
8 particular. And I gave her their names at court the day I  
9 was supposed to go to trial. And I told her I -- she  
10 needed to talk to these guys.

11 Q Why did you wait until the day you went to trial to  
12 give her the names?

13 A Because that -- that was the next time I had to talk  
14 to her. She was only my lawyer for, like, a month.  
15 Jennifer Coyle had the names. She didn't do her job. She  
16 did not get it. She didn't go over -- she did the same  
17 thing. She didn't go over the discovery with me neither.

18 Q Okay. So you gave Ms. Manigault the names the -- the  
19 day you were supposed to go to trial?

20 A Yes, sir.

21 Q Okay. Did you not try to give her the names when she  
22 dropped off discovery?

23 A I told her about the guys. I said, I have witnesses  
24 that I need you to contact. And she said, We'll talk  
25 about that when I see you at court.

1 Q Okay. Now, you -- you were charged with assault and  
2 battery of a high and aggravated nature; right?

3 A Yes, sir.

4 Q And you pled to assault and battery first degree?

5 A Yes, sir. I feel foolish for pleading to that.

6 Because I don't really believe I was guilty of assault in  
7 the first degree.

8 Q Did she ever discuss assault and battery second  
9 degree or third degree --

10 A No, sir.

11 Q -- or self-defense with you?

12 A No, sir. Jennifer Coyle, she had got the plea down  
13 to four years. And when Dorothy Manigault became my  
14 lawyer, she offered me a blind plea from zero to 20. And  
15 I'm like, I don't understand this. But, no, she never  
16 discussed any type of defense, or anything for me.

17 Q Or any -- anything less than assault and battery  
18 first?

19 A No.

20 Q Okay. Now, one of your allegations is that  
21 Ms. Manigault promised you you'd get a sentence of three  
22 years -- a negotiated sentence of three years with no  
23 probation?

24 A Yes, sir. That's correct.

25 Q Is that correct?

1 A That's correct.

2 Q Okay. Well, now in the plea, the Judge talked about  
3 probation, did he not?

4 A In the plea when I was in court, the -- the sentence  
5 wasn't negotiated like it was supposed to be. I thought I  
6 was getting a three-year sentence. I thought everything  
7 was already agreed to.

8 I get in the courtroom. The Judge, Do you know what  
9 you're pleading to and what you're getting?

10 I said, Yes. I'm pleading to this. And I'm getting  
11 a three-year sentence.

12 At that time, Brandi Hinton interrupted and said,  
13 Your Honor, it's a 10-year sentence, suspended to three  
14 with five years probation, and \$20,000 restitution.

15 I -- I tried to tell the Judge I didn't agree with  
16 that. When I did, Ms. Manigault said, shhh [phonetic],  
17 I'm going to get you three years --

18 Q Hang on a second. You -- you have bipolar disorder,  
19 don't you?

20 A Yes, sir.

21 Q And, sometimes, you get a little manic?

22 A Yes, sir.

23 Q And today is maybe one of those days you're starting  
24 to get a little manic; is that correct?

25 A Yes, sir.

1 MR. THOMPSON: Okay. May I approach, Your Honor?

2 THE COURT: Yes.

3 BY MR. THOMPSON:

4 Q I want to show you the transcript, Mr. Sartin. Page  
5 10, Line -- starting at Line 13 -- well, actually, Line 12  
6 where the Court says, How do you wish to plead?

7 And you indicated, I plead guilty. But I was told  
8 I'd get a three-year sentence if I pled; is that correct?

9 A Yes, sir.

10 Q Is that what you expected to get?

11 A That's what I expected to get. And then from there,  
12 everything went hectic.

13 Q Okay. Who -- who told you you'd get a three-year  
14 sentence?

15 A My lawyer back there, Dorothy Manigault. I made it,  
16 pacifically [sic], clear that I would not accept nothing  
17 other than a negotiated three-year sentence. I said, I do  
18 not want no probation. I do not want no suspended  
19 sentence. I had a bad experience with that before in the  
20 past. And I didn't want it again.

21 Q Do you have trouble because of your bipolar  
22 disorder --

23 A Yes, sir.

24 Q -- complying with probation?

25 A Yes. That's why I did not want it.

1 Q Okay. Now, your fifth allegation in the amended  
2 supplemental application is that you were coerced into  
3 entering a guilty plea by something that Ms. Manigault  
4 told you prior to the plea. Would you elaborate on that,  
5 please?

6 A Okay. I was ready to go to trial with this charge.  
7 I was very confident. I mean, Dorothy Manigault -- I told  
8 her several times whenever I seen her, I'm ready for  
9 trial. I want a trial. I told Jennifer Coyle that. I  
10 asked for a trial over and over.

11 Finally, I got in front of a Judge and he said, I'm  
12 putting you on the docket. I didn't know about the  
13 continuance she asked for. But she wasn't prepared to go  
14 to trial.

15 Anyways, I wanted my trial. And when it came time  
16 for trial, she comes to me and she said, Mr. Sartin,  
17 there's new evidence.

18 I said, What's the new evidence?

19 She said, There's new medical records.

20 I said, For what?

21 She said, The victim's lost his eye.

22 I said, There's no way he's lost his eye.

23 And I -- I -- I'm like, okay, if it's true -- and I  
24 was going off of good faith. She's my lawyer and supposed  
25 to be looking out for my best interest.

1 I said, Okay, what can we do?

2 She said, I can get you the three years.

3 I said, Okay, I'll take three years.

4 Q Okay. Have you later learned whether or not he lost  
5 his eye?

6 A As soon as I took that plea, I felt pretty foolish.  
7 I felt like I had been tricked, deceived, manipulated into  
8 taking it. And so I contacted my mother. And I had  
9 her --

10 Q Let's don't go into what somebody says. Just did you  
11 learn whether or not he had lost his eye?

12 A No. He did not lose his eye.

13 Q Okay. Now, you've testified already to the  
14 three-year sentence, no probation. Did Ms. Manigault  
15 indicate anything to you about parole?

16 A She told me if I took the -- the sentence, then  
17 there's a good chance I would probably get parole when I  
18 got to SCDC.

19 Q Okay.

20 A And I'm looking forward to that. When I get to SCDC,  
21 they tell me I'm not even eligible for parole. But maybe  
22 she was talking about parole with the three-year sentence.  
23 Because the 10-year suspended sentence, I found out you're  
24 not eligible for parole with that.

25 Q Did you file an appeal in this matter?

1 A Sir, I -- I contacted Dorothy Manigault's office as  
2 soon as I got back from court and asked for her to put an  
3 appeal in. I contacted the Judge. I asked him to contact  
4 her, which he did through an e-mail. She wouldn't respond  
5 to me. I don't know how to -- I didn't know how to put an  
6 appeal in myself at the time. I didn't have no access to  
7 any material. And I couldn't. I wanted to because I was  
8 wronged.

9 Q Well, how do you know Ms. Manigault received that  
10 information that you wanted an appeal?

11 A Well, I've got the letter over there. And the Judge  
12 e-mailed it to her. It's in my folder.

13 Q I'm going to bring you all your stuff. And I want  
14 you to pull out the letter that you talked about.

15 A Okay. Right here.

16 Q Is this the letter that Judge Gravely wrote back to  
17 you in response to your letter?

18 A Yes, sir.

19 MR. THOMPSON: Okay. Just for the record, I would --  
20 I would mark this as Applicant Exhibit No. 1.

21 THE COURT: All right. For identification? Are you  
22 going to admit it or just for identification?

23 MR. THOMPSON: I -- I think -- I'm going to go ahead  
24 and admit it, if that's okay.

25 MR. SMITH: No objection, Your Honor.

1 THE COURT: Without objection, Applicant's Exhibit  
2 No. 1.

3 (WHEREUPON, Applicant's Exhibit No. 1 was marked for  
4 identification and admitted into evidence.)

5 BY MR. THOMPSON:

6 Q Now, Mr. Sartin, we've covered, I think, basically,  
7 everything that -- that -- that you've raised in your  
8 amended application.

9 A Yes, sir.

10 Q I'm going to ask one more time. Are you certain that  
11 you still want to go forward with this?

12 A Yes, sir, I do.

13 MR. THOMPSON: Okay. Thank you.

14 Answer any questions Mr. Smith has, please.

15 THE COURT: All right.

16 MR. SMITH: Okay. Thank you.

17 CROSS-EXAMINATION

18 BY MR. SMITH:

19 Q Okay. Mr. Sartin --

20 A Yes, sir.

21 Q -- you said that you only met with Ms. Manigault how  
22 many times before your plea hearing?

23 A She came to the jail to see me once at the jail. She  
24 dropped off part of my motion. I don't even -- I'm not  
25 even sure if it had the motion in it for this charge I'm

1 here about today. And then she came once and dropped off  
2 hospital records when they moved me to the stockade.

3 Q Okay. And so how many times?

4 A Maybe twice.

5 Q So you only visited twice?

6 A Maybe. I'm not sure. That -- that's all I can  
7 recall.

8 Q Okay.

9 A Unless you're counting court appearances.

10 Q Okay. Well, when -- in the court appearances, did  
11 she discuss your case with you when you were in court?

12 A Well, the last time I came to court, she tried to say  
13 the victim lost his eye and that she had new evidence  
14 that -- medical records, which I never seen. And, also,  
15 there was a two-minute phone call. She went over that  
16 with me. That's about the only thing she went over with  
17 me out of my motion.

18 Q Okay. So how many times did she talk about your case  
19 with you while you were at court?

20 A That one time.

21 Q Just once?

22 A Yeah. Before I -- when she persuaded me to take that  
23 plea.

24 Q Okay. And you mentioned that you talked to her on  
25 the phone. How many times did you talk to her on the

1 phone?

2 A Maybe one time.

3 Q Okay. Just once.

4 Did you ever send or receive letters?

5 A I sent her several letters.

6 Q Okay.

7 A Maybe seven or eight.

8 Q Okay.

9 A I don't remember receiving none from her. If I did,  
10 I believe I would have them.

11 Q Okay. And you mentioned that she did show you the  
12 discovery in your case, except for you're saying she  
13 didn't show you a video?

14 A She gave it to me. She never went over it with me.

15 Q Okay.

16 A That's her job; right?

17 Q Okay. She didn't go over any of the evidence with  
18 you?

19 A No. She brought the motion and dropped it off to me  
20 at the jail. She said, This is your -- blah, blah, blah.  
21 This is this. Look at it and see what you think.

22 Q Okay.

23 A That's pretty much the way it went.

24 Q Okay. Did you look at it?

25 A Yeah. I -- I looked through it. I -- I did.

1 Q Okay. Did she ever discuss the charges that were  
2 against you?

3 A Well, I mean -- I mean, when I came to court, she  
4 said, You've got this. It -- it carries 20 years. Do you  
5 want to take an open plea after I was just offered four  
6 years?

7 I said, There's no way I'd take a 20-year open plea,  
8 not really.

9 She was a very poor counsel for me.

10 Q Well, you knew what you were charged with, though;  
11 right?

12 A Yes. I -- I was charged with an assault charge. But  
13 there's a problem here. Because there's different levels  
14 to these assault charges; right? You've got first,  
15 second, high and aggravated nature, and all that. And I  
16 was far from guilty of assault high and aggravated nature  
17 or a first degree assault, I feel, but, you know.

18 Q Okay. Well, you did know and Judge Gravely told you  
19 about that in court; right? Told you what you were  
20 charged with, what you were pleading to?

21 A I knew what I was charged with.

22 Q Okay. Did you -- you -- you mentioned before you  
23 didn't talk about your case much. But did you discuss  
24 defenses with Ms. Manigault?

25 A No. She didn't -- no. There was no defense brought

1 up.

2 Q Okay. Did you give her any information? You  
3 mentioned the witnesses. Do you have their names?

4 A I -- I can't come up with his name right off the top  
5 of my head. I believe I gave it to Mr. Thompson when he  
6 came to see me at Kershaw, though, my lawyer over there.

7 Q Okay. Did you give her any independent evidence,  
8 other than that -- this name?

9 A Well, I -- I told her I was lynched in the cell and  
10 there was a video. The victim brought on the assault by  
11 his actions, his own conduct. That should have been a  
12 defense that she should have been trying to use for me.  
13 It was never brought up.

14 Q Okay. Well, when the State read its version of the  
15 facts at your guilty plea, didn't you tell the Judge you  
16 were guilty?

17 A I told the Judge I was guilty of an assault; right?  
18 Okay. Then I started explaining to him my situation. And  
19 I was getting ready to tell him that I do not believe I'm  
20 really guilty of a first degree assault. And when I  
21 started doing that, I was interrupted by Ms. Manigault,  
22 shhh, he don't need to hear all that.

23 Q But that's not reflected on the record; right?

24 A No, it wasn't. That's the problem.

25 Q Okay.

1 A But you can look through that transcript and you can  
2 see where, like, I had been talking and all the sudden it  
3 was cut off and the Judge started talking.

4 Q Well, and let me ask you about the transcript then.  
5 Because earlier you testified that, at one point, you told  
6 the Judge you only wanted three years. And then --

7 A That's correct.

8 Q -- he explained what a negotiated sentence was. And  
9 you told him, no, you didn't want that.

10 A I told him I wanted three years. That's what I  
11 agreed to. That's what I thought the negotiated sentence  
12 was. And then all the sudden, this probation and \$20,000  
13 is throwed [sic] on me out of the blue. I'm, like, caught  
14 like a deer in the headlights. I'm like, what's going on?

15 Q So when the Solicitor says, No, that's not what the  
16 deal is. Here's what the deal is. You still said, Okay.

17 A I got ready to tell the Judge that that's not what I  
18 was wanting. Dorothy Manigault said, Mr. Sartin, I'm  
19 going to get you three years.

20 I said, Okay.

21 Q But you didn't tell the Judge that. You just got  
22 ready to and then you didn't?

23 A No, I didn't, I didn't. I was cut off by my lawyer.

24 Q Well, that -- you can't prove that from the record --

25 A No, I can't. Because it's not wrote on there.

1 Q Okay. And you told the Judge, yes, you want to plead  
2 guilty?

3 A But -- but I can -- I can prove something to you on  
4 here, if you'll look at it. The Judge -- okay. This  
5 probation was brought up; right? And the Judge said,  
6 Okay, Mr. Sartin, that's between you, and your lawyer, and  
7 the Solicitor.

8 But I'm like -- I'm asking him how much probation am  
9 I looking at? Because it was never discussed with me. I  
10 clearly asked the Judge, How many -- how many years of  
11 probation am I looking at?

12 He -- with the negotiated sentence, it was supposed  
13 to have already been agreed on before I went in front of  
14 him; is that not correct?

15 Q He said, The probation is up to me. And he said, Do  
16 you understand that --

17 A Oh, you're jumping -- you're jumping to the back of  
18 the transcript. Where I'm talking about is when I asked  
19 him, How many years of probation am I facing?

20 Q Okay. Well, let me tell you -- let's look right  
21 here. Here's the transcript. I'm looking at Page 13.  
22 And we're looking at about Line 12. Read your question  
23 there, please.

24 A I said, Sir, I've got a question. Do you know how  
25 long I will be on probation?

1 Q Okay. And let's look for his answer --

2 A But that shows you right there --

3 Q Sir, I'm asking a question here. Okay. Let's look  
4 at Line 17, the first full sentence beginning with you.  
5 What does Judge Gravely say?

6 A Okay. Let's see. That's what I've got to figure  
7 out. Y'all have -- you all have negotiated the amount of  
8 the sentence and probation.

9 If we negotiated the amount of probation, why am I  
10 asking him --

11 Q Sir --

12 A -- how many years of probation am I getting?

13 Q And then what does he say here?

14 A Let's see. I'm going to read it to you again --

15 Q No --

16 A I --

17 Q -- you didn't read it the first time --

18 A -- can't see it down here --

19 Q Okay.

20 A You ain't got to yell at me.

21 Q Start reading here on Line 19.

22 THE COURT: All right. Calm down. Calm down.

23 BY MR. SMITH:

24 Q Okay. Start reading on Line 19.

25 A Let's see. Y'all have negotiated the amount of the

1 sentence and probation. With my understanding, the amount  
2 of probation will be up to me. And that's what I want to  
3 hear from you and your attorney about.

4 Does that sound like a negotiated sentence to you?

5 Q Well, you heard him say --

6 THE COURT: He asks the questions, and you answer the  
7 questions. He gets to ask the questions, not you.

8 THE WITNESS: Okay.

9 BY MR. SMITH:

10 Q Did you say, No, sir. I'm only supposed to be in for  
11 three years?

12 A Does it say it on there?

13 Q I'm asking you. Did you say that?

14 A Does it say it on the transcript --

15 THE COURT: What did I just told [sic] you? He asks  
16 the questions, you answer. You don't get to ask the  
17 questions. He asks the questions, you answer them.

18 THE WITNESS: Okay.

19 THE COURT: All right. Do that part.

20 BY MR. SMITH:

21 Q And that was on Page 13; right? That's where we were  
22 just looking.

23 A (There was no response.)

24 Q And that's your copy of the transcript you're looking  
25 at right there; right?

1 A Yes. This is my copy right here.

2 Q Okay. And on -- that's on Page 13 where he said  
3 that; right? The probation is going to be up to me.  
4 That's where we were just reading from; right?

5 A Yes, sir.

6 Q Okay. And if we flip through a few pages, I don't  
7 see any place where you ever say, Judge, I'm only getting  
8 three years. I -- this is not what I want.

9 A You're -- you're correct. I did not say that. I  
10 felt like I -- I -- I was trying to say it. Every time I  
11 got ready to talk, I was interrupted or cut off by my  
12 lawyer.

13 Q Well, point to me, please --

14 A It's -- it's not on this transcript. You already  
15 know that.

16 Q Okay. And then if we look on Page 15 at Line 14,  
17 Judge Gravely says, And based on everything, you still  
18 wish to plead guilty? And what do you say on Line 16?

19 A Yes, sir. I'm guilty. Okay. All right. I'm  
20 guilty.

21 I accept your plea.

22 MR. SMITH: Okay. I ask the Court's indulgence for  
23 just a moment.

24 THE COURT: All right.

25 (Pause.)

1 BY MR. SMITH:

2 Q Mr. Sartin, did you tell Ms. Manigault then -- did  
3 you say, I don't want to do this, let's withdraw it?

4 A I thought I was getting a three-year sentence.

5 Q That's not what I asked you. I said, did you tell  
6 him you wanted to -- you changed your mind? I want to  
7 withdraw. I want to go to trial.

8 A Immediately, I did not. After the Judge told me I  
9 had 10 days to file an appeal if I didn't agree with the  
10 sentence, as soon as I got back to the jail --

11 Q That's a different question, sir.

12 A I'm answering your question.

13 Q Okay.

14 A As soon as I got back to the jail, I called her  
15 office. I wrote a letter. And I contacted the Judge.  
16 And she was informed that I didn't agree with the sentence  
17 and I wanted to appeal.

18 Q After you had pled?

19 A Yes, sir. After I accepted it, of course.

20 Q Okay. Did you tell Judge Gravely, no, this is not  
21 what I want. I changed my mind?

22 A No. I did not tell him that.

23 MR. SMITH: All right. Thank you.

24 No more questions.

25 THE COURT: I've just -- I've just got one question.

EXAMINATION

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BY THE COURT:

Q Do you got a copy -- do you got that transcript in front of you?

A Right here.

Q Turn to Page 9. Let me know when you're there.

A Okay, sir.

Q Are you on Page 9?

A Yes, sir.

Q All right. Go to Line 22. And this is where the Judge -- the Court is asking you, But do you feel that you've had sufficient time then to talk to Ms. Manigault about your case?

And what was your answer?

A At the time, I felt --

Q Read -- read your answer.

A I'm giving you my answer, sir.

Q Well, I want you to read it from the transcript.

A Oh, okay. I said, Yes, sir. She's done an excellent job.

Q All right. So that's all I wanted -- so that's -- that's what you said to -- to the Judge when he asked you that; is that correct?

A At the time, I -- that's the way I felt until I found out she lied to me.

1 THE COURT: All right. I don't have any other  
2 questions.

3 Anything on redirect?

4 MR. THOMPSON: No, sir.

5 THE COURT: All right. You can step down.

6 MR. THOMPSON: That's the Applicant's showing, Your  
7 Honor.

8 THE COURT: All right. Is the State ready to  
9 proceed?

10 MR. SMITH: We are, Your Honor.

11 At this time, we'd call Ms. Dorothy Manigault.

12 THE COURT: All right.

13 THE CLERK: Ms. Manigault.

14 WHEREUPON,

15 DOROTHY A. MANIGAULT,

16 after first having been duly affirmed, testified as follows:

17 THE CLERK: Thank you.

18 Please state your full name for the record.

19 THE WITNESS: Dorothy A. Manigault.

20 DIRECT EXAMINATION

21 BY MR. SMITH:

22 Q Okay. Ms. Manigault, how long have you been  
23 practicing law?

24 A Over 30 years.

25 Q Okay. And where are you practicing now?

1 A Greenville County, Pickens and Laurens Counties.

2 Q Okay. And how much of that time has been in criminal  
3 defense in your 30-plus years?

4 A More than 30.

5 Q Okay. How did you come to represent Mr. Sartin?

6 A As he has testified, I was appointed to him probably  
7 in July of 2018.

8 Q Okay.

9 A The previous attorney was Jennifer Coyle. She had  
10 left the contract system.

11 Q Okay.

12 A So I was appointed.

13 Q To your knowledge, were there any other attorneys  
14 other than her?

15 A There was another attorney, but I can't remember who  
16 that was.

17 Q Okay.

18 A I was his third attorney.

19 Q Okay. Did you ever talk with the previous attorneys  
20 about his case?

21 A I talked with Jennifer Coyle extensively, because we  
22 shared the same office space.

23 Q Okay. And what did you talk about with her?

24 A The Defendant's discovery, his attitude, his conduct.  
25 She had given him a copy of discovery, at least, twice.

1 He kept writing to ask for discovery. So we were talking  
2 about it, making sure that he got another copy of -- of  
3 the complete discovery.

4 Q Okay.

5 A And she had gone over his case with him, discovery  
6 with him, also.

7 Q Okay. After taking on his case, did you review the  
8 file?

9 A Yes, I did.

10 Q Okay. And were there documents or notes in the file  
11 from the previous attorneys?

12 A Yes.

13 Q Okay. Did you move for any kind of supplemental  
14 discovery or anything at that point?

15 A Generally, I just -- this case, I just did an e-mail  
16 to -- to the Solicitor to make sure that I had everything.

17 Q Okay.

18 A It turned out that I did not.

19 Q Okay. Did you get anything in response to that  
20 e-mail?

21 A Yes. Mr. Sartin, on the jail visits, says there  
22 should be a body cam of -- of the fight. And there should  
23 be body cam or -- and/or video. So I requested that  
24 information.

25 Q Okay. And was there a video?

1 A There was a video.

2 Q Was it a body cam or a security camera?

3 A It was not a body cam. The -- the body cam that he  
4 was referring to or the security video, they did not have.  
5 The jail said it was a malfunction with that system. And  
6 they did not have what he was describing they should have.

7 Q Okay. So what -- what was on the security video that  
8 you did get?

9 A The security video that we viewed -- and he did view  
10 the video at the courthouse. And it was the day of trial.

11 Q Okay.

12 A Okay. What we saw was an inmate coming out of the  
13 cell and dropping an item. You could not clearly see what  
14 the item was. All right. We didn't see any fight or  
15 anything on that -- on that video.

16 Q Did you see anything in the video that you believed  
17 would have been exculpatory?

18 A No.

19 Q Okay. What -- what other discovery did you get?

20 A All right. The other discovery that was relayed to  
21 me at the trial -- the motion for continuance was on  
22 August 28th. The trial was supposed to be August 29th.

23 So I -- on the 22nd, the Solicitor responded to me  
24 that she had a two-minute jail call. And they, generally,  
25 give us the jail call not too far out in advance, unless

1 there are a lot of jail calls.

2 Q Okay. Did you get any discovery that you did not  
3 show to Mr. Sartin?

4 A No. He listened to that jail tape. And I -- unlike  
5 he recalls, when I went to the jail to give him another  
6 copy of the discovery, my notes said that would have been  
7 the fourth copy of discovery he had received. I sat down  
8 with him. I don't just drop discovery off to defendants  
9 at jails. I sat down with him and went over the discovery  
10 with him.

11 Q Okay. Well, how many times did you meet with him  
12 total?

13 A I probably met with him about three times. Because I  
14 only had the case probably about two months, less than  
15 60 days. Let me say it like that.

16 Q Okay. Does that three -- total of three meetings  
17 include your meeting with him on the day of trial?

18 A No.

19 Q Okay. So there's four, if you include the day of  
20 trial?

21 A Yes.

22 Q Okay. Your meetings, how long were they?

23 A The -- the initial meeting to review the discovery  
24 was on July 16th, 2018, at the Pickens County LEC. That  
25 meeting may have lasted about 45 minutes to an hour.

1 Q Okay. And --

2 A Because we were only dealing with the specific case  
3 that was going to be on the trial docket. And that was  
4 assault of a high and aggravated nature.

5 Q Okay. And that was just the first meeting,  
6 45 minutes?

7 A Yes.

8 Q Okay. Do you remember how long the other meetings  
9 were?

10 A Probably about 30 minutes each.

11 Q Okay.

12 A It wasn't -- they weren't long. He's correct about  
13 that.

14 Q Okay. Did you explain to him the charges against  
15 him?

16 A Yes.

17 Q Okay. Was -- did he give any indication that he  
18 didn't understand?

19 A None.

20 Q Okay. Did you explain potential defenses to him?

21 A I explained to him the information that was in the  
22 discovery. And he says that he had a defense, that he was  
23 being lynched.

24 On the video that we did see, there were several  
25 inmates out in the common area. They were not moving.

1 They were sitting there. And we only saw one guy. So the  
2 information that he was being lynched, there was no -- no  
3 video, no evidence, except his word --

4 Q Okay.

5 A -- that he was being jumped or ganged.

6 Q Okay. Other than the lynching, did you see any other  
7 potential defenses?

8 A No.

9 Q Okay. Did you explain to him that that didn't seem  
10 to be a meritorious defense?

11 A Correct. But -- but he -- as you've noted today,  
12 he -- when he has an idea, that's what he wants, that's  
13 what he's going to stick to.

14 Q Okay. Did -- did he give you any indication that he  
15 didn't understand?

16 A Oh, no. He understood everything.

17 Q He just didn't agree?

18 A He didn't agree.

19 Q So, at that point, was he wanting a trial?

20 A He wanted an offer. He wanted the case disposed of,  
21 not necessarily a trial. But he wanted the case disposed  
22 of.

23 Q Okay.

24 A So he demanded what he wanted from me and from  
25 Ms. Coyle.

1 Q Okay. Did you enter plea negotiations on his behalf?

2 A Yes.

3 Q Okay. And what -- what happened with that? What  
4 kind of offers did you get?

5 A The offer that I did get was -- the Solicitor said if  
6 he -- if he wanted to plead to plead straight up. That  
7 was before the day of trial.

8 Q Okay.

9 A And so on the day of trial, we agreed that the case  
10 would be reduced -- changed to A and B first. This is a  
11 negotiated sentence, 10 years suspended to three years,  
12 credit for 295 days, which he says was about 10 months,  
13 probation and restitution.

14 Q Okay.

15 A That was August 29th.

16 Q And that was the final offer?

17 A That was the final offer. We negotiated with the  
18 Solicitor and informed the Judge before the plea.

19 Q Okay. And you discussed this plea offer with  
20 Mr. Sartin?

21 A Yes. Back and forth with the Solicitor maybe four or  
22 five times before we could work it out. And he kept  
23 saying what he wanted, and this is what he wanted. And so  
24 I just wrote down what he said that he wanted. And the  
25 Solicitor, finally, agreed to it.

1 Q Okay. And that was what he told you he wanted?

2 A Yes. 10 years, suspended to three years, credit for  
3 time served. He said 10 months. The Solicitor said  
4 295 days, probation and restitution.

5 His --- one of his main complaints was the amount of  
6 restitution. He did not believe that the -- the victim in  
7 this case sustained substantial injury. And he said that  
8 was -- that probably was not correct. They were trying to  
9 pad him. So we went over the medical reports, also, with  
10 him to show him that the guy had sustained substantial  
11 injury to the eye.

12 Q Okay. Did you explain to him what a negotiated  
13 sentence was?

14 A Yes. And if the Judge accepts -- accepted the  
15 negotiated sentence, then it would be exactly what we  
16 said.

17 All right. He is correct, he wanted to know the  
18 amount of probation. And the Solicitor would not agree to  
19 an amount. So we had just agreed to probation and  
20 restitution. And the Judge would decide what probation he  
21 wanted to give him.

22 Q Okay. Is that what Judge Gravely -- in your  
23 understanding, is that what Judge Gravely was referring to  
24 when he said that it was his understanding that he would  
25 set probation?

1 A Yes.

2 Q Okay. Did you see any reason to object, based on  
3 Judge Gravely's statement there?

4 A No.

5 Q Okay. Did Mr. Sartin give you any indication that he  
6 did not understand what a negotiated sentence was?

7 A No. Because, like I said, he had me running back and  
8 forth from the conference room to the Solicitor. And  
9 when -- when he, finally, got something that he wanted,  
10 which was what I just read to you, he fully understood.

11 Q Okay.

12 A He just didn't appreciate -- and I explained to him  
13 the probation could be up to five years. It was in the  
14 Judge's discretion. And, as you see, the transcript says  
15 the probation could PTUP up or end at the end of three  
16 years.

17 Q Did he give you any indication that he did not  
18 understand that the Judge would set the amount of  
19 probation?

20 A No. He understands completely. He's been through  
21 the system quite a bit. So he understood the process.

22 Q Okay.

23 A And he understood what a negotiated sentence was,  
24 that the Judge couldn't go outside of that sentence. If  
25 the Judge didn't accept it, then he would allow him to

1 withdraw and we could proceed with a trial that day, if he  
2 wanted to.

3 Q Okay. It looks like you appeared before Judge  
4 Gravely and moved for a continuance right before trial?

5 A Yes. That was on August 28th.

6 Q Okay. What was the basis for that?

7 A The basis for that was the Solicitor had just given  
8 me a two-minute jail call. So I just moved for a  
9 continuance.

10 I knew that the Judge would not grant a continuance.  
11 The tape was only two minutes, as she said. And the  
12 Defendant was allowed to listen to that tape on the 29th  
13 when he got there.

14 Q Okay. Now, you mentioned that you got -- did you get  
15 some evidence in this case about an eye injury to the  
16 victim?

17 A Yes. The medical records and an e-mail from the  
18 Solicitor.

19 Q Okay. And what was your understanding of his -- the  
20 extent of his injuries?

21 A His -- his injuries were such that it caused him loss  
22 of sight in the eye. And Mr. Sartin argued about that,  
23 there was no way he -- that -- how he hit him could cause  
24 loss of sight. So we argued about that -- well, he  
25 argued. I just listened. And I showed him -- showed him

1 the medical records so he could see for himself.

2 Q Okay. Did you get any indication that he did not  
3 understand what you were showing him?

4 A No. He understood that the guy was injured. He just  
5 was arguing about the severity of the injury and the  
6 resulting effect on the victim.

7 Q Okay. In your mind, did that go to the charge? In  
8 other words, was that something that would have mitigated  
9 his charges, that particular dispute about the extent of  
10 the injury to the eye?

11 A No.

12 Q Okay.

13 A Because they would have brought in a medical person.

14 Q Okay. And do you remember Judge Gravely referring --  
15 do you remember the Solicitor's reference to the injury to  
16 the eye --

17 A Yes.

18 Q -- during the plea hearing?

19 A Yes.

20 Q Okay. At the plea hearing, did you shh Mr. Sartin  
21 at any point?

22 A No. If -- no. If you read the transcript,  
23 Mr. Sartin -- the Judge asks a question and Mr. Sartin  
24 goes off on something that the Judge didn't ask. So the  
25 Judge was trying to bring him back in so he could listen

1 to the Judge's questions and answer the questions that  
2 were asked.

3 He interrupted the Judge a couple of times in the  
4 transcript himself and tried to explain. The Judge said,  
5 We haven't gotten there yet. Let's just wait.

6 Then, finally, the Judge changed his order of  
7 questioning to try to satisfy Mr. Sartin's -- and answer  
8 the question that he was asking. But, no, I did not shhh  
9 him.

10 Q Okay. Did you instruct him to answer the questions  
11 in a certain way?

12 A No. My general practice is this with every client, I  
13 go over the questions. I don't even allow them to answer  
14 the questions. If they want to answer, that's fine. But  
15 I go over each question that I believe a Judge is going to  
16 ask, make sure I go over all the Constitutional issues,  
17 and tell the client and Mr. Sartin that the Judge can ask  
18 anything else he or she feels like asking. But the  
19 Constitutional questions for sure, background history,  
20 marital status, education, stuff like that.

21 So, yes, I went over the questions with him, but I  
22 did not tell him how to answer.

23 Q Now, Mr. Sartin says that he told the Judge he didn't  
24 want to accept the sentence. I believe that was his  
25 testimony. But that's not reflected in the transcript.

1 Do you recall him, at any point, making statements during  
2 the hearing --

3 A Not even to me. He didn't make a statement to me.  
4 As I said, he -- he, essentially, negotiated this plea  
5 deal. I was the one running back and forth to get it  
6 verified or confirmed.

7 Q Okay.

8 A But he, essentially, told me what he wanted. And  
9 that's what I did.

10 Q Okay. To your knowledge, is there any statement that  
11 Mr. Sartin made at the hearing that isn't reflected in the  
12 transcript?

13 A No, not to my knowledge.

14 Q Okay. Did he give you any indication at the plea  
15 hearing that he wanted to withdraw his plea?

16 A No, he did not.

17 Q Okay. If he had done so, what would you have done?

18 A Asked the Judge to allow us to withdraw. If he had  
19 given any indication that he wanted to step back after the  
20 Judge explained everything to him, then I would,  
21 certainly, have asked the Judge to allow him to step  
22 back -- step down and withdraw the plea. He gave me no  
23 indication.

24 Q Did he give you any indication that he did not  
25 understand that he could withdraw a guilty plea and

1 proceed to trial at -- during the plea hearing?

2 A No. The jury was in the hallway waiting on us. He  
3 said that he -- in the conferences, he did not want to go  
4 to trial if I could get this negotiated plea for him.  
5 And, generally, we -- we don't work out a negotiated plea  
6 at the day of trial.

7 Q Right.

8 A So the jury was in the hallway waiting for us to  
9 select the jury, if he wanted to change his mind and go  
10 forward. And he was aware of that.

11 Q Okay. Did he give you the names of any potential  
12 witnesses he believed could have mitigated the charges  
13 against him?

14 A He gave me the name of one guy on August 29th at the  
15 courthouse, the day of trial. And he said he was a former  
16 cellmate. He was not in detention. And he did not know  
17 an address, or anything else. So that's -- he gave me  
18 that, I think, before we started negotiating.

19 Q Okay. Did you attempt to contact this person?

20 A No. We were at -- we were at 9:30 or so-ish at the  
21 courthouse ready for trial. No, I did not.

22 Q Based off of what he gave you, did you believe that  
23 this person had any exculpatory evidence?

24 A No. Because he said he was a former cellmate. He  
25 did not describe to me that this guy saw the fight, or

1 indicated what the testimony would be from this witness  
2 that he gave me the day of trial.

3 Q Okay. Did he indicate that he wanted to move forward  
4 with the trial, that he wanted you to investigate this,  
5 and then use this person as a witness at that trial?

6 A No. He indicated in our conferences -- because the  
7 Judge delayed the start of the court day for us. He  
8 indicated that if I could work something out for him that  
9 he was satisfied with, he didn't want a trial. He didn't  
10 want to go to trial.

11 Q Okay. What did he tell you he wanted you to do with  
12 this name?

13 A Like I said, when he first got to the courthouse, we  
14 were talking about what was going to happen if we went  
15 forward. And then he gives me a name. And the name he  
16 gave me was Casey Foreman, F-O-R-E-M-A-N. And he gave me  
17 that on August 29th, 2018. And he said it was a former  
18 cellmate, who was no longer at the jail.

19 Q But he still wanted to move forward with his plea  
20 hearing?

21 A Guilty plea.

22 Q Okay. Other than this name, did he give you any  
23 other leads to follow?

24 A No.

25 MR. SMITH: Okay. I ask for the Court's indulgence

1 for one moment.

2 THE COURT: All right.

3 (Pause.)

4 BY MR. SMITH:

5 Q Ms. Manigault, I'm going to ask you a few questions  
6 about a particular letter you received. I believe this  
7 may already be in evidence.

8 MR. SMITH: May I see Applicant's...

9 BY MR. SMITH:

10 Q Okay. I'm going to draw your attention to Applicant  
11 Exhibit No. 1.

12 A Yes.

13 Q Okay. Please describe this letter to me.

14 A This is a letter from Judge Gravely on my copy, which  
15 I gave -- provided to you. It was an attached letter from  
16 Mr. Sartin requesting an appeal.

17 Q Okay. And you did receive this letter?

18 A Yes. I received this letter. I received the  
19 letter -- I don't know what date. But I'm sure it was  
20 within the 10-day period for filing an appeal.

21 Q Okay. Now, I'm going to show you another document.  
22 And if you will, please, describe this document to me.

23 A This is a letter from John Sartin that he'd sent to  
24 Judge Gravely. It is dated 8/29/2018.

25 Q Okay. Do you have any reason to believe that this

1 letter was not from Mr. Sartin to Judge Gravely?

2 A No, I do not.

3 Q All right. Will you, please, describe the contents  
4 of this letter?

5 A Mr. Sartin is telling the Judge where he is, at  
6 Kirkland in Columbia. I'm writing you this letter to  
7 inform you that I wish to put in my appeal for my plea  
8 today. I feel that it was very ignorant on my behalf, as  
9 well as my lawyer, for me to plead to the plea. I was  
10 deceived in accepting. I thought all -- I thought all I  
11 was going to receive was a three-year sentence. Instead,  
12 I pretty much received an eight-year sentence for a charge  
13 I am not guilty of.

14 Yes, I am guilty of an assault, but not first degree  
15 assault. The guy that was assaulted never -- never  
16 received any bodily -- any serious bodily injury. I think  
17 that's what it says. As -- I don't know what that is.  
18 Please withdraw my plea and let -- let justice be fairly  
19 served, I believe.

20 MR. SMITH: Okay. Your Honor, at this time, I would  
21 ask to move this in evidence as Respondent's Exhibit No.  
22 1.

23 THE COURT: Without objection.

24 (WHEREUPON, Respondent's Exhibit No. 1 was marked for  
25 identification and admitted into evidence.)

1 BY MR. SMITH:

2 Q Ms. Manigault, do you interpret this letter as a  
3 request for an appeal?

4 A I interpret this letter as a complaint that he had  
5 changed his mind about the guilty -- about the guilty  
6 plea. He asked that his plea be -- be withdrawn and  
7 justice be served.

8 Q Okay. Does this letter -- do you believe this letter  
9 gives you indication that Mr. Sartin might have wanted to  
10 appeal his plea?

11 A On -- on the face of the letter, I took it more as  
12 probably I should have filed a motion to review his  
13 sentence. But I didn't file it because it was negotiated.  
14 And he, essentially, participated the entire way in the  
15 negotiation.

16 Q And you will agree, though, that referring to  
17 Applicant's Exhibit No. 1 that Judge Gravely does use the  
18 word "appeal" in this letter?

19 A Yes, he does.

20 Q Okay. Other than these letters, did -- did  
21 Mr. Sartin ever ask you to appeal his case?

22 A He testified that he wrote me several letters. I  
23 don't have them. I can't say that he didn't write them.  
24 But I don't have them in my file.

25 Q Okay. But you did not file an appeal; correct?

1 A I did not file an appeal.

2 Q Okay.

3 A And -- and probably if he wrote me a letter about  
4 filing an appeal that -- I would not have filed an appeal  
5 intentionally because it was a negotiated sentence.

6 Q Okay.

7 A That he negotiated.

8 Q Did you see any meritorious issues on appeal?

9 A None. I did not have anything to put in my affidavit  
10 that would be -- that would have been meritorious for an  
11 appeal.

12 MR. SMITH: Okay. Your Honor, I have no further  
13 questions.

14 THE COURT: All right.

15 CROSS-EXAMINATION

16 BY MR. THOMPSON:

17 Q Good morning, Ms. Manigault.

18 A Good morning.

19 Q How are you?

20 A Doing good.

21 Q Good.

22 You said you represented Mr. Sartin for less than 60  
23 days?

24 A Yes. My file notes indicate that I was appointed on  
25 July 2nd, 2018. And we were scheduled for trial on

1 August 29th, 2018.

2 Q Okay. I believe in -- you said you provided him with  
3 copies of the discovery?

4 A Yes.

5 Q In fact, I think in the transcript, you indicated in  
6 there to the Judge you'd given him copies yourself four  
7 times; is that correct?

8 A That is not phrased properly. I gave him a copy one  
9 time. He had received three copies from the previous two  
10 attorneys.

11 Q All right. So you gave him one copy?

12 A That's correct.

13 Q All right. Did you give it to him all at one time,  
14 or did you give him some now -- and I realize practicing  
15 law that, sometimes, the Solicitor gives you some  
16 discovery now, he gives you some later, and sometimes  
17 later. In fact, in Cherokee County, we have, quite  
18 frankly, got discovery lots of times as you were picking  
19 the jury. Was that the case here where you got it  
20 piecemeal?

21 A It was piecemeal, but not serious piecemeal. I gave  
22 him a -- a complete copy of the discovery that I had at  
23 the time that I was appointed and received the discovery  
24 from Jennifer Coyle and from the solicitor's office. The  
25 piecemeal part comes in that when I received the initial

1 discovery, I did not have the medical. Okay.

2 Q Okay.

3 A So when I received the medical, then I provided that  
4 to him, also. Then I received the two-minute jail call  
5 information on July 22nd, but did not get a copy to review  
6 with him until the 29th, the day of court -- no, I got the  
7 copy on the 28th, and reviewed it with him on the 29th.

8 Q Okay. The --

9 A That was a two-minute jail call.

10 Q All right. The medical records, did you get them in  
11 more than once -- one group, or did you get them all at  
12 one time?

13 A No. I received them all at one time. That was  
14 provided to me.

15 Q And the -- the purpose of my question there is,  
16 Mr. Sartin says that when he's getting ready to enter the  
17 guilty plea is when he was told that the -- the person had  
18 lost his eye or lost his sight in his eye. Was that in  
19 those initial records you received?

20 A It may not have been, but Mr. Sartin was aware of the  
21 injury.

22 Q Okay.

23 A I explained to him the injury. Because the Solicitor  
24 informed me about the seriousness of the injury. And  
25 that's -- Mr. Sartin wanted straight probation when I was

1 assigned to him. And so she was explaining to me that she  
2 could not give him straight probation because of the  
3 extent of the injury.

4 So he was aware, even if he didn't have the medical  
5 report, of the extent of the injury.

6 Q Okay. Was he aware of it prior to going to -- into  
7 court that morning to plead?

8 A Yes.

9 Q Okay. So you never told him there was any new  
10 evidence that the victim had lost his eye?

11 A I don't recall telling him about new evidence. I may  
12 have gone over the medical report that morning with him.  
13 Because he was very argumentative about the nature and the  
14 severity of the injury. So I went -- probably went over  
15 the medical report with him to explain that that's what  
16 the report says.

17 Q Okay. The video, were there -- you said it really  
18 didn't show anything exculpatory?

19 A Huh-uh.

20 Q Were there any other videos that just did not exist  
21 anymore?

22 A There -- he says there was a body cam. But there was  
23 a jail video or whatever that was -- that should have been  
24 there, but -- if the system was functioning properly. And  
25 the response that the Solicitor got and I got from the

1 jail is that the system had malfunctioned and there was  
2 not any other tape.

3 Q So the only tape you had was the one that you  
4 described already?

5 A Correct.

6 Q Did you show that to him?

7 A Yes.

8 Q Okay. Did you show that to him before the morning of  
9 the plea?

10 A No.

11 Q So it was the morning of the plea that he saw it?

12 A Yes. To my -- yeah, I think so.

13 Q Okay. As to witnesses -- and you -- you named  
14 somebody that you say he gave you as a cellmate?

15 A Yes.

16 Q Was there any attempt to contact that person?

17 A No. The -- he gave me this name on the morning of  
18 August 29th, which is the day of trial. And the name he  
19 gave me was Casey Foreman. He says he was a former  
20 cellmate. The only attempt that I made to try to find  
21 Casey Foreman was to contact the jail, the stockade. He  
22 was not -- no longer there.

23 And after -- after that information, then Mr. Sartin  
24 says if I could get him what he wanted, a plea or  
25 something, then he would take it. And so that's when we

1 started negotiating.

2 Q Was the first time you had talked to him about any  
3 potential witnesses being the morning of the plea?

4 A That's the first time he ever gave me anything.

5 Q Well, did you ask?

6 A I can't say I did or didn't. I don't know.

7 Q Okay. So prior to the morning of the plea, you can't  
8 say whether or not you explored the possibility of there  
9 being witnesses to support his story?

10 A I know when we -- when he talked about the video, he  
11 may have said something about the other inmates, but never  
12 offered a name. So I cannot answer your question one way  
13 or the other, whether I asked him for a witness list.

14 Q Well, on the morning of his plea when you found out  
15 about this witness and realized he wasn't in the jail, did  
16 you consider making a motion for continuance to try to  
17 locate this witness?

18 A No. Because Mr. Sartin, at that -- at that point,  
19 had shifted to, if you could just work me out a plea that  
20 the Judge will accept. So he shifted.

21 So I did not make a motion for continuance because of  
22 this witness. And I didn't make any other efforts to try  
23 to find the witness because he shifted from the witness to  
24 a guilty plea.

25 Q All right. What kind of plea did Mr. Sartin tell you

1 he wanted you to work out?

2 A Initially, he wanted me -- he just wanted two years  
3 straight. That's it. And then he said he would take --  
4 well, I went to the Solicitor with that. And she refused  
5 that. And then we went back and forth. We, finally,  
6 ended up -- Mr. Sartin said he would take 10 years,  
7 suspended to three years, credit for time served of 10  
8 months approximately, according to him, probation and  
9 restitution.

10 He -- he, also, said that he thought the restitution  
11 was outrageous. But that was the gist of the negotiation.

12 Q All right. Did you talk with him about the right to  
13 a restitution hearing?

14 A Yes.

15 MR. SARTIN: No.

16 BY MR. SMITH:

17 Q Are you sure he understood he was not getting three  
18 years without probation when he walked in to plead guilty?

19 A He -- yes. He told me what to say. I wrote it down,  
20 took it to the Solicitor, and brought it back to him and  
21 said, This is what -- this is what we're doing.

22 Q Okay. And did you ever have a discussion of parole  
23 with him?

24 A No. I never discuss parole with any client, never.  
25 Because I -- the Department of Corrections figures that

1 out. And I don't want to mislead them or give them any  
2 information that is incorrect. So my practice is never to  
3 discuss parole with any client.

4 Q And I think -- I think Counsel and I have kind of  
5 agreed that there's an issue on appeal here, I mean, for  
6 the -- you did not file an appeal; correct?

7 A I did not.

8 Q And probably should have; is that correct?

9 A I don't think -- I didn't have anything meritorious  
10 on appeal.

11 Q Okay. But you do understand that whether it's  
12 meritorious or not, if your client tells you to file an  
13 appeal, you have an obligation to file it?

14 A I understand.

15 MR. THOMPSON: Okay. Thank you.

16 I don't have any further questions.

17 THE COURT: Anything else?

18 MR. SMITH: No more questions, Your Honor.

19 THE COURT: All right. I have no questions.

20 Thank you, Ms. Manigault.

21 You can step down.

22 MR. SMITH: I ask that she be excused, Your Honor.

23 THE COURT: Any objection?

24 MR. THOMPSON: No objection.

25 THE WITNESS: Thank you.

1 THE COURT: Any other witnesses for the State?

2 MR. SMITH: No, Your Honor.

3 THE COURT: All right.

4 MR. SMITH: And -- and, Your Honor, we'd -- we'd  
5 offer for the record -- I don't know if you want it,  
6 closing statements or not. But I think the State -- we  
7 will concede the issue of the appeal. But we still deny  
8 all other issues raised by the Applicant. And that would  
9 be allegation number six to the amended supplemental  
10 application.

11 MR. THOMPSON: And, quite frankly, I'm not an  
12 appellate attorney. Ms. Shurling's here. She may know  
13 more than we do.

14 If they're going to concede a belated appeal, I'm not  
15 sure that after the results of that appeal whether we're  
16 entitled to another PCR on these issues. I just -- I just  
17 don't know.

18 THE COURT: Well, I hadn't decided anything.

19 MR. THOMPSON: I understand. But the State indicates  
20 that they're conceding the belated appeal.

21 THE COURT: All right. Well --

22 MR. SMITH: And unless Your -- Your Honor wants other  
23 argument, I mean, that's our -- that's our case.

24 THE COURT: All right. Send me proposed orders  
25 within 45 days and I'll take a look at it.

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MR. THOMPSON: Both sides?

THE COURT: Both sides.

\*\*\*\*\*END OF TRANSCRIPT OF RECORD\*\*\*\*\*

CERTIFICATE OF REPORTER

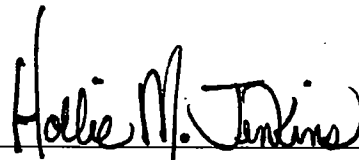
STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth 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 the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Pickens County, South Carolina, on the 17th day of April, 2019.

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

November 12, 2019



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20



State of South Carolina  
The Circuit Court of the Thirteenth Judicial Circuit

Perry H. Gravely  
Judge

Post Office Box 219  
PICKENS, SC 29671

September 6, 2018

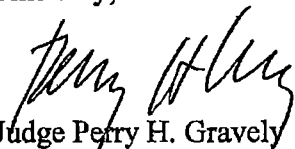
John D. Sartin - 00307173  
Kirkland Correctional Institution  
4344 Broad River Road  
Columbia, SC 29210

Re: State of SC v John D Sartin - 2018A3910100329

Dear Mr. Sartin:

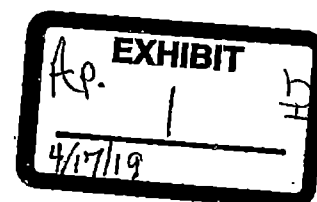
This will acknowledge receipt of your letter of August 29, 2018 regarding the appeal of your plea of August 29, 2018. Please be advised that your letter to me is not the proper procedure for an appeal. Please consult the applicable South Carolina Appellate Court Rules or contact your attorney, who I am copying with this letter.

Sincerely,

  
Judge Perry H. Gravely  
Judge, Thirteenth Judicial Circuit

PHG/lde

cc: Dorothy Manigault – via email  
(w/copy of referenced letter)



Judge Crowley

8-29-2018

This is John Santin by the time you receive this letter I will be at Kirkland Correctional Institution in Columbia South Carolina

the ever I am writing you this letter to inform you that I wish to put in my appeal for my plea today (8-29-2018)

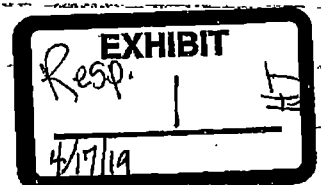
I feel that it was very ignorant on my behalf as well as my lawyer for me to plead to the plea I was deceived in accepting I thought all I was going to receive was a 3 year sentence, instead I pretty much received an eight<sup>(8)</sup> year sentence for a charge I am not guilty of. Yes I am guilty of an assault but not a 1<sup>st</sup> Degree assault. The Guy that was assaulted never received any sentence Bodily Injuries or Damaged by him.

Please withdraw my plea and let justice be fairly served

P.S. I'll be contacting my lawyer Dorothy Manigault and informing her as well

Sincerely  
John Santin

(My last plea before this one was 4 years now I pretty much have 8.)



STATE OF SOUTH CAROLINA  
COUNTY OF PICKENS

) IN THE COURT OF COMMON PLEAS  
) FOR THE THIRTEENTH JUDICIAL CIRCUIT  
)

John David Sartin, #307173, 2019 JUL 25 P 2: 02

Case No. 2018-CP-39-1320

)  
) Applicant,

v.

)  
) CLERK OF COURT  
) PICKENS COUNTY  
) SOUTH CAROLINA

) **ORDER GRANTING BELATED**  
) **APPELLATE REVIEW AND**  
) **DISMISSING ALL OTHER ALLEGATIONS**

) State of South Carolina,

) Respondent.  
)  
)

This matter comes before this Court by way of an Application for Post-Conviction filed on December 11, 2018, by John David Sartin (Applicant). The State (Respondent) filed its Return, Partial Motion to Dismiss, and Motion for More Definite Statement on February 28, 2019. Applicant filed an Amended/Supplemental Application for Post-Conviction Relief on April 4, 2019. An evidentiary hearing in the matter was held before the Honorable Alex Kinlaw, Jr., on April 17, 2019, at the Greenville County Courthouse. Applicant was present and was represented by Don A. Thompson, Esquire. Respondent was represented by Assistant Attorney General Taylor Z. Smith of the South Carolina Attorney General's Office. At the hearing, Applicant testified on his own behalf and Dorothy A. Manigault, Esquire (Counsel), testified on behalf of Respondent. Following a thorough review of the record in its entirety and the testimony and evidence presented at the evidentiary hearing, this Court finds that Applicant is entitled to petition the Supreme Court for a belated appellate review of his guilty plea pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). However, this Court also finds that, with regard to all of Applicant's remaining allegations, Applicant has not established any constitutional violations or deprivations that would require this Court to grant any other portion of his Application for

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Post-conviction Relief. Therefore, all of these remaining allegations are denied and dismissed with prejudice.

### **PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Pickens County Clerk of Court. During its August of 2018 term, the Pickens County Grand Jury indicted Applicant for assault and battery of a high and aggravated nature (ABHAN) (2018-GS-39-1129). Counsel represented Applicant in the case. Assistant Solicitor Brandi Batson Hinton prosecuted the case on behalf of the Thirteenth Circuit Solicitor's Office. On August 28-29, 2018, Applicant appeared before the Honorable Perry H. Gravely and pleaded guilty to the lesser-included offense of first-degree assault and battery. Pursuant to a negotiated sentence, Judge Gravely sentenced Applicant to a term of imprisonment of ten years, provided upon the service of three years, the balance be suspended to five years of probation. Applicant did not appeal his plea or sentence.

### **CURRENT PROCEEDING**

On October 18, 2018, Applicant filed an Application for Post-Conviction Relief, in which he made the following allegations:

1. Counsel did not appeal Applicant's plea or sentence within the ten-day window despite his request that she do so;
2. Subject-matter jurisdiction;
3. Violation of constitutional rights; and
4. Deliberate indifference.

On April 4, 2019, Applicant filed an Amended/Supplemental Application for Post-Conviction Relief in which he raised the following allegations:

1. Counsel would not provide Applicant with all of his discovery in a timely manner;
2. Counsel never showed Applicant a video of the incident that

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Applicant believes would have been crucial to his defense. Applicant is further informed and believes that Counsel never obtained a copy of the video of the incident;

3. Counsel would not talk to witnesses that Applicant wanted her to talk to, which Applicant believes would have been crucial to his defense;
4. Counsel never discussed a lesser charge with Applicant;
5. Counsel coerced Applicant into entering a guilty plea by telling him that;
  - a. There was new evidence that the victim had lost his eye. Applicant later learned that this was not true;
  - b. Applicant would get a sentence of three years with no probation; and
  - c. Applicant would go up for parole and get paroled right after sentencing; and
6. Counsel refused to file an appeal even though he asked her to do so.

At the start of the evidentiary hearing, Respondent requested that Applicant specify for the record the grounds upon which Applicant would move forward at the hearing. Applicant specified that she would be moving forward solely upon the allegations raised in the Amended/Supplemental Application for Post-Conviction Relief, and waived those in the original Application. Accordingly, only those allegations upon which evidence was presented and were not waived will be addressed in this Order.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has thoroughly reviewed the record in its entirety. Additionally, this Court heard the testimony presented at the evidentiary hearing and was able to observe the witnesses presented at the evidentiary hearing, which allowed the Court to scrutinize the credibility of all witnesses presented. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

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Applicant, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution, U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). Applicant has the burden of proving the allegations in his post-conviction relief action, and when alleging that trial counsel was constitutionally ineffective, he must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result.” Strickland, 466 U.S. at 686

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced Petitioner such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart,

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474 U.S. 52 (1985). The “prejudice prong ordinarily requires more than simply a defendant’s assertion that but for counsel’s deficient performance he would not have pled but would have gone to trial.” Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 595 (2009).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668.

Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland requires the post-conviction relief applicant to prove “counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.” Id. at 697. Therefore, the function of the post-conviction relief court is to determine if “in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance” required of a criminal defense attorney.” Id. at 690.

“A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate’s right to contest the validity of such a plea is usually, but not invariably, foreclosed.” Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 74 (1977)). “Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea.” Garren v. State, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); see Jamison v. State, 410 S.C. 456, 469-71, 765 S.E.2d 123, 129-30 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of

cases” and instructing that caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”).

Applicant’s allegations are addressed fully below.

***Counsel would not provide Applicant with all of his discovery in a timely manner. Counsel never showed Applicant a video of the incident that Applicant believes would have been crucial to his defense. Applicant is further informed and believes that Counsel never obtained a copy of the video of the incident. Counsel would not talk to witnesses that Applicant wanted her to talk to, which Applicant believes would have been crucial to his defense.***

The basis of these allegations is that Applicant was alleging that Counsel intentionally delayed in showing all of the discovery with him so as to antagonize him, that Counsel did not acquire a video from the jail that would have corroborated his version of events from the assault or show the video to him, that Counsel failed to follow up on potential witnesses given to Counsel by Applicant.

Applicant testified only visited him twice before his plea hearing. He testified Counsel came to the jail and dropped off his discovery but did not explain any of it. He testified she was “playing a game” with him by not giving him all of his discovery at one time. He testified he has never seen the alleged video of the assault. He testified Counsel had never discussed potential defenses with him.

Counsel testified she met with Applicant on at least three occasions before his trial date, which eventually became the date of his plea hearing. She testified she reviewed discovery with Applicant and that her notes reflected that she had done so. She testified he kept writing letters to her about the discovery. Counsel testified she sent an email to the solicitor about body camera footage and security camera footage and received a supplemental discovery disclosure, which

included security footage of the assault. She testified the jail didn't have as many videos of the assault as Applicant believed. She testified she reviewed the security video with Applicant at the courthouse and that he did watch the video. She testified nothing in the video was exculpatory. She testified that the video did not corroborate Applicant's story about the assault. She testified she moved for supplemental discovery again and received a recording of a two-minute jail phone call and that she let Applicant listen to that as well. She testified she did not see any potential defenses available to Applicant. She testified discovery came in to her in a piecemeal fashion and that she did not have all of discovery until after giving Applicant the initial discovery that she had received. She testified she gave the supplemental discovery to Applicant once it came in.

This Court finds that Counsel was not constitutionally ineffective for failing to review discovery with Applicant, including video of the assault. Counsel reviewed all discovery with Applicant, which included security footage of the assault. This video footage was not helpful to Applicant's defense. Counsel obtained all available video from the assault and reviewed it with Applicant. Applicant's allegation that Counsel never reviewed the discovery or video with him lacks credibility and is without merit in light of the more credible testimony of Applicant and Applicant's affirmations about Counsel's reviewing discovery with him at the plea hearing.

Applicant testified he told Counsel about some witnesses, that she said that they would discuss it further later, and that they never discussed it again after that. He testified he thought he gave the names of the alleged witnesses to Counsel. Counsel testified Applicant gave her the name of one potential witness and told her that the witness was a former cell mate. She testified she believed the witnesses name to have been Kasey Foreman. She testified Applicant provided that name to her very late in the case. She testified Applicant did not give her a description of what that potential witnesses could have testified about.

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This Court finds that Applicant's allegations that he provided potential witnesses to Counsel and that Counsel failed to investigate them is without merit and lacks credibility. Applicant mentioned one witness to Applicant and Counsel did not believe that the witness would have aided the defense based upon the lack of supporting information from Applicant. Since Applicant has not presented these witnesses at his evidentiary hearing, he can only speculate as to what their testimony would have been. Furthermore, Applicant decided to waive his trial rights, including the right to present evident and testimony, by pleading guilty pursuant to the negotiated sentenced.

This Court finds that Applicant has failed to meet his burden of proof in showing that Counsel was constitutionally ineffective in regards to these allegations since he has not shown any deficiency or resulting prejudice in Counsel's performance. As such, these allegations are denied and dismissed with prejudice.

***Counsel never discussed a lesser charge with Applicant.***

Applicant testified Counsel only discussed the charges of ABHAN with him when he was in court for appearances. Applicant testified he knew he was charged with ABHAN. Applicant testified he declined to enter an open plea to ABHAN. Applicant testified he desired to go to trial. Applicant testified Counsel persuaded him to plead to first-degree assault and battery.

Counsel testified she explain the charge of assault and battery of a high and aggravated nature to Applicant. She testified their first meeting together, which lasted for at least forty-five minutes, concerned ABHAN exclusively. She testified he understood the substance of their discussion. She testified Applicant wanted a plea offer and instructed her to enter into plea negotiations with the solicitor. She testified Applicant specifically mentioned first-degree assault and battery as the offense to which he wanted to plead guilty and instructed her to try for that

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with the solicitor. She testified Applicant had been through the criminal justice system before and had some familiarity with it. She testified the solicitor wanted Applicant to plead to ABHAN straight up. She testified she discussed that offer with Applicant but Applicant rejected that offer. She testified the solicitor then agreed to reduce the ABHAN to first-degree assault and battery and let him plead to that on the day of trial pursuant to a negotiated sentence. She testified that Applicant pleaded guilty to the plea deal that he had specifically demanded from the beginning of their plea negotiations. She testified Applicant pleaded to the charge that he had negotiated for and insisted upon from the very beginning. She testified Applicant fully understood the terms of the negotiated sentence but was concerned about the length of probation and the amount of restitution.

This Court finds that Counsel was not constitutionally ineffective for failing to discuss a lesser charge with Applicant. Applicant was indicted for assault and battery of a high and aggravated nature, but he pleaded guilty to first-degree assault and battery, which is a lesser included offense of ABHAN. This Court finds that Applicant was very involved in directing Counsel during plea negotiations, that he specifically directed Counsel to negotiate for first-degree assault and battery as a lesser included offense of ABHAN, and that Applicant was pleading pursuant to a negotiated sentence that he had wanted and bargained for. At the evidentiary hearing, Applicant failed to put forth evidence that he desired to plead guilty or proceed to trial in hopes of being convicted of a different lesser included offense. When asked by Judge Gravely at the plea hearing if he wished to plead guilty to first-degree assault and battery, Applicant affirmed that he did. Plea Tr. 10. Counsel stated at the plea hearing that she had had sufficient time to discuss the charge and any defenses or issues with Applicant. Plea Tr. 14. Applicant testified at the plea hearing that he was "guilty of assaulting." Plea Tr. 15. Then when

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asked if he still wished to plead guilty to first-degree assault and battery, Applicant testified, "Yea. I'm guilty." Plea Tr. 15. This Court finds that Applicant has failed to meet his burden of proof in showing that Counsel was constitutionally ineffective for failing to discuss with him lesser included offenses since he has not shown any deficiency or resulting prejudice in Counsel's performance. As such, this allegation is denied and dismissed with prejudice.

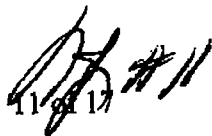
***Counsel coerced Applicant into entering a guilty plea by telling him that there was new evidence that the victim had lost his eye, that Applicant would get a sentence of three years with no probation, and that Applicant would go up for parole and get paroled right after sentencing.***

Applicant testified Counsel told him that she had discovered that the victim had lost his eye and that this caused him to plead guilty rather than going to trial as he had originally intended.

Counsel testified the extent of the injuries to the victim according to the medical records she received in discovery was the loss of sight in victim's eye. She testified she did not remember the specific extent of the injury to the victim's eye but remembers that that information was included in the discovery. She testified she showed the victim's medical records from discovery to Applicant and reviewed them with him. She testified that previous defense attorneys had worked on Applicant's case, and that they had also reviewed discovery with Applicant. She testified he understood their discussion on the medical records but that Applicant disagreed with the conclusion about the extent of the injury to the victim's eye. She testified Applicant was aware of the extent of the damage to the victim's eye as it was presented in the medical records.

This Court finds that Counsel was not constitutionally ineffective for presenting to Applicant information that the victim had lost his eye, or that Applicant was coerced into pleading guilty thereby. Counsel reviewed the medical records about the eye injury sustained by the victim with Applicant and Applicant understood the contents therein, even if he disagreed with the records. The transcript from the plea hearing demonstrates that the solicitor's recitation of facts included only one reference to the damage to the victim's eye: "Mr. Sartin punched the victim in the face at least once resulting in a broken orbital bone and resulting in some vision issues to [the victim]'s eyes." Plea Tr. 14-15. The recitation did not include an allegation that the victim had lost his eye; rather, it referred only to "vision issues." After the solicitor put those facts on the record, Applicant affirmed to Judge Gravely that he believed the State would be able to prove his guilt if the case went to trial, and that he was indeed guilty. Plea Tr. 15. When Judge Gravely informed Applicant during the plea hearing of his trial rights, whereby he could have confronted the State's witnesses and challenged the State's evidence, Applicant affirmed that he understood the rights but nevertheless wanted to waive them by pleading guilty. Applicant has failed to demonstrate that Counsel gave him inaccurate information about the extent of the injury to the victim's eye. Additionally, Applicant pleaded guilty to first-degree assault and battery on the basis of the solicitor's factual recitation, which did not allege that the victim had lost his eye.

Applicant testified Counsel told him that he would only get three years of probation. Applicant testified that he wanted to minimize the amount of time that he would be on probation because he was of the belief that he would violate its terms due to his having bipolar disorder. Applicant testified that probation was never discussed during the plea hearing. Applicant testified he told Judge Gravely during the plea hearing that he did not want to plead guilty pursuant to the negotiated sentence if the length of probation would be left to Judge Gravely's

  
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discretion in sentencing. When asked to identify that statement in the transcript from the plea hearing, Applicant testified that that is not recorded in the plea transcript.

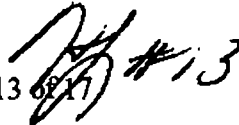
Counsel testified she discussed the charge that Applicant was facing. She testified she discussed the terms of the negotiated sentence with him and that he understood. She testified Applicant understood that the length of probation was the portion of the sentence that would be left to Judge Gravely's discretion and that Applicant knew this fact. She testified Applicant was concerned about the length of probation and wanted a short probation period so that he would have less risk of violation the terms thereof. She testified she did not shush or attempt to silence Applicant at any point during the plea hearing. She testified that everything that was said at the plea hearing is reflected accurately in the transcript. She testified that Applicant went forward with pleading guilty in accordance with the negotiated plea despite hearing references at the plea hearing that Judge Gravely would have discretion over the length of probation, but that the jury pool was waiting in the hallway and that Applicant could have decided to go to trial, and that they would have then done so. She testified Applicant would have preferred a specified short probation period as a term of the negotiated sentence, but the solicitor refused to agree to that, and Applicant agreed to the terms of the negotiated sentence knowing that Judge Gravely would have discretion over probation.

This Court finds that Counsel was not constitutionally ineffective for presenting to Applicant promising to Applicant that he would only get three years and no probation, or that Applicant was coerced into pleading guilty thereby. Counsel did not promise any specific sentence to Applicant. Applicant entered into a negotiated sentence knowing that his sentence would be suspended to three years and that the amount of probation would be left to the discretion of Judge Gravely at the plea hearing. At the plea hearing, the solicitor specified that

the sentence would be suspended to three years and then be followed by probation. Plea Tr. 10-11. Applicant affirmed that he was pleading guilty in light of that agreement. Plea Tr. 11. At the plea hearing, Applicant asked Judge Gravely for the length of probation, and Judge Gravely replied that "the amount of probation will be up to me . . ." Plea Tr. 13. Applicant then affirmed that he still wished to plead guilty. Plea Tr. 15.

Applicant testified that Counsel promised him that he would be paroled almost immediately once he pleaded guilty and was sentenced. Counsel testified that she did not promise any specific parole numbers or timelines with Applicant. She testified that she never discusses parole with clients because she does not know what the South Carolina Department of Corrections will do or how they will compute parole eligibility. This Court finds that Counsel was not constitutionally ineffective for promising to Applicant that he would be paroled immediately after sentencing, or that Applicant was coerced into pleading guilty thereby. Applicant's allegation that Counsel promised an immediate parole is not credible and without merit in light of Counsel's more credible testimony. The testimony from Counsel and the transcript of the plea hearing confirm that Applicant wanted to plead guilty to first-degree assault and battery in accordance with the negotiated sentence.

This Court finds that Applicant has failed to meet his burden of proof in showing that Counsel was constitutionally ineffective as to these allegations since he has not shown any deficiency or resulting prejudice in Counsel's performance and he has failed to demonstrate that his plea was not entered into knowing and voluntarily. As such, these allegations are denied and dismissed with prejudice.

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***Counsel refused to file an appeal even though he asked her to do so.***

Applicant contends Counsel was ineffective for failing to file a direct appeal. Applicant testified that he asked Counsel to appeal his plea and sentence after the hearing but that she did not do so. He testified he wanted an appeal and now cannot have one since Counsel did not follow his instructions. He testified he wrote a letter to Judge Gravely afterwards about it, in which he expressed his dissatisfaction with the sentence and requested an appeal. A copy of Applicant's letter to Judge Gravely, dated August 29, 2018, was admitted into evidence at the evidentiary hearing without objection. In the letter, Applicant wrote that he was "writing . . . this letter to inform [Judge Gravely] that I wish to put in my appeal for my plea today," and "[p]lease withdraw my plea . . ."

Counsel testified that Judge Gravely notified Applicant of his right to file an appeal and the ten-day deadline at the plea hearing. She testified Applicant did not ask her in person to appeal his plea or sentence during or after the plea hearing. She testified she received a letter from Judge Gravely forwarding a letter from Applicant dated August 29, 2018, in which Applicant expressed dissatisfaction with his sentence and requested an appeal that that his plea be withdrawn. She testified she received the letter from Judge Gravely with the enclosed letter from Applicant within the ten-day window for filing a Notice of Appeal. She testified Judge Gravely's letter to her said that Judge Gravely was of the opinion that Applicant wanted to appeal his plea and sentence. She testified she interpreted Applicant's letter as a complaint against her and not as a request for an appeal, despite the interpretation of Judge Gravely that the Applicant was requesting an appeal, and despite Applicant's use of the word "appeal" in the letter. She testified she did not attempt to contact Applicant about the letter or to ask for clarification on whether he was asking for her to file a Notice of Appeal. She testified she should

have filed a motion to reconsider the sentence based on the letter but that she did not do so because Applicant had negotiated the sentence himself. She testified she did not file an appeal and does not believe that she would have had any legitimate issues in which to raise in a Notice of Appeal.

This Court finds that Applicant's testimony that he verbally asked Counsel to file a Notice of Appeal right after his plea hearing is not credible in light of Counsel's testimony that Applicant did not do so. On the other hand, this Court finds that Applicant did request an appeal of his guilty plea by a letter addressed to Judge Gravely after the plea hearing, in which he requested that he be allowed to "put in his appeal," that was forwarded to Counsel by Judge Gravely. "[C]ounsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think . . . that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. In making this determination, courts must take into account all the information counsel knew or should have known." Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000). The explicit request for an appeal in Applicant's letter should have motivated Counsel to, at the very least, contact Applicant so that she could discuss a potential appeal with him. Applicant's testimony that he would have told Counsel that he wanted an appeal if she had contacted him in response to his letter informs the Court of Applicant's intention with the letter. The explicit nature of the request for an appeal in Applicant's letter is further confirmed by Judge Gravely's recognition that Applicant was requesting an appeal in the letter. Based on the testimony given at the evidentiary hearing, this Court finds that Applicant did not knowingly and voluntarily waive his right to appeal his guilty plea. Therefore, Applicant is entitled to petition the South Carolina Supreme Court for belated appellate review of his guilty plea. See White v. State, 263 S.C. 110, 118, 208 S.E.2d 35, 39 (1974) (stating in the absence of

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an intelligent waiver by the defendant, counsel should pursue an appeal on the defendant's behalf). A petition for belated review pursuant to White can remedy Applicant's lack of a direct appeal.

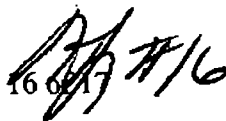
### CONCLUSION

Based on all the foregoing, this Court finds that Applicant is entitled to petition the Supreme Court for a belated appellate review of his guilty plea pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974). However, this Court also finds that, with regard to all of Applicant's remaining allegations, Applicant has not established any constitutional violations or deprivations that would require this Court to grant any other portion of his Application for Post-conviction Relief. Therefore, all of these remaining allegations are denied and dismissed with prejudice.

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

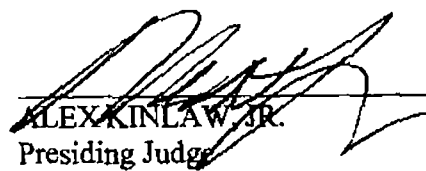
#### **IT IS THEREFORE ORDERED:**

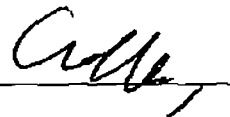
1. That this Court grants Applicant a belated appellate review of his direct appeal issues pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974);
2. That this application with respect to all other allegations for post-conviction relief must be denied and dismissed with prejudice; and

  
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3. Applicant shall remain in the custody of the State within the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 19<sup>th</sup> day of July, 2019.

  
ALEX KINLAW, JR.  
Presiding Judge  
Thirteenth Judicial Circuit

, South Carolina

CLERK OF COURT  
PROBERTS COUNTY  
SOUTH CAROLINA

2019 JUL 25 P 2:02

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF PICKENS )

INDICTMENT FOR  
ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED  
NATURE

At a Court of General Sessions, convened on **AUG 21 2018** the Grand Jurors of Pickens

County present upon their oath:

That JOHN DAVID SARTIN did in Pickens County on or about the 26th day of March 2018, unlawfully injure Adam Griggs whereby the victim suffered great bodily injury or the act was accomplished by means likely to produce death or great bodily injury. This is in violation of 16-03-0600 of the South Carolina Code of Laws (1976) as amended.

**Certified Copy**  
*Harold P. Wells*  
**Clerk of Court**  
**Pickens County, SC**  
Dated \_\_\_\_\_

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

*[Signature]*  
SOLICITOR BAR #77844  
78744

WITNESSES

William K Oggenfuss

Pickens County Sheriff's Office

3/27/2018

ARREST WARRANT NUMBER  
2018A3910100329

ACTION OF GRAND JURY

~~TRUE BILL~~  
~~ERR~~

AUG 21 2018

*Beatrice Phillips*  
Foreperson of Grand Jury

VERDICT

*Henry Lopez*  
Foreperson of Petit Jury  
Date:

DOCKET NO. 2018-GS-39-1129

BBH

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

AUG 21 2018

TERM 2018

THE STATE

vs.

JOHN DAVID SARTIN

Indictment for

3411

ASSAULT AND BATTERY OF A HIGH AND  
AGGRAVATED NATURE

VIOLATION § 16-03-0600(B)(1)

Certified Copy

*Theresa P. Walker*

Clerk of Court  
Pickens County, SC

Dated \_\_\_\_\_