

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Michael G. Nettles, Circuit Court Judge

TIMOTHY WRIGHT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001872

APPENDIX

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COUNTY OF CHARLESTON	)	DOCKET NO. 2014-GS-10-3515
	)	2015-GS-10-5649
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	)	2015-GS-10-5655
	)	2015-GS-10-5656
	)	2015-GS-10-5657
STATE OF SOUTH CAROLINA	)	
	)	
	)	
vs.	)	
	)	
	)	
TIMOTHY MONTEZ WRIGHT	)	
	)	
Defendant	)	
	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

February 6, 2017
Charleston, South Carolina

B E F O R E:

THE HONORABLE R. MARKLEY DENNIS, JR., JUDGE

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

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PROCEEDINGS

THE COURT: Thank you.

[Whereupon, the defendant enters the courtroom]

MR. COCHRAN: Judge, could I have one second?

THE COURT: Absolutely, Mr. Cochran, take your time. Mr. Wright, good morning sir. Let the record reflect Mr. Wright is present.

[Off the record momentarily]

THE COURT: Let the record reflect that the jury is not present. After we last met I have now viewed the videos, the videos of the forensic interviews -- those are not interviews but videos of the phone conference and the video of the buy in its entirety. And as I understand the State wanted to redact those portions because there are portions where he is obviously talking about another person that they were having, they were having a heroin purchase as I recall.

And there was some discussion about setting that person up and he comments about taking him down so to speak; and I'm paraphrasing his words. But it's my understanding Mr. Cochran it is your desire that those portions that don't relate to Mr. Wright still be played if they are publishing the tape at all.

MR. COCHRAN: Yes, Your Honor.

THE COURT: Okay. And I understand your objection

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1 to that. And under 403 I can understand but clearly when
2 you consider the overall to us the C-I's are obviously
3 something we know about but the jurors are entitled to
4 know. And we know there is good and bad with C-I's and
5 this -- some of the things he says may cut that way and
6 so I think it's a fair situation.

7 And more importantly if it is a prejudice it really
8 flows to the defendant. And you have discussed it with
9 your client, Mr. Wright, that I would be happy to exclude
10 that. And he agrees with you in your plans in your
11 strategy, is that correct?

12 MR. COCHRAN: Yes, Your Honor.

13 THE COURT: Okay. Mr. Wright, is that correct sir
14 that you've talked to your lawyer about the strategy of
15 playing the whole tape and not just portions of the tape?

16 MR. WRIGHT: Yes, sir.

17 THE COURT: And it's your desire to do that?

18 MR. WRIGHT: Yes, sir.

19 THE COURT: You understand that by your answering
20 my question it has obviously nothing to do with -- the
21 jury is not aware of that. But if there should be, and I
22 don't know what is going to happen, but if for some
23 reason this jury should convict you and you file a
24 subsequent proceeding and claimed that your lawyer did
25 something improper by not objecting you understand that

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1 this is going to probably not preclude you from saying it
2 but is going to have a significant impact on that
3 proceeding, do you understand that? That's called a post
4 conviction relief proceeding.

5 MR. WRIGHT: Not really.

6 THE COURT: Well, you talk to your lawyer about it.

7 [Whereupon, Mr. Cochran confers with his client]

8 MR. COCHRAN: I believe we're good about that
9 point, Your Honor.

10 THE COURT: Mr. Wright, you've had a chance to talk
11 to your lawyer about that?

12 MR. WRIGHT: What the lawyer is saying I don't
13 understand.

14 THE COURT: I understand that. But the clearest
15 thing -- one of the issues that comes up is that if for
16 instance the lawyer could say that was not effective and
17 should have objected to it. The difference in what
18 generally controls is if it's your strategy, if it is
19 part of your case strategy, which you've talked to your
20 lawyer about in how do you present your case, is that
21 correct?

22 MR. WRIGHT: Well, my lawyer didn't really talk
23 about all the strategies.

24 THE COURT: Okay. Mr. Cochran, this is your
25 strategy; you've talked with him about that?

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1 MR. COCHRAN: Yes, Your Honor.

2 THE COURT: And you're comfortable with your
3 decision?

4 MR. COCHRAN: Yes, Your Honor.

5 THE COURT: Very good. Thank you very much. There
6 was mention made that there was a motion; that you had a
7 motion for continuance?

8 MR. COCHRAN: Your Honor, yes. Over the weekend
9 I've been speaking with my client on Saturday and Sunday
10 and it came to my attention -- well, I guess I'll start
11 by saying that on Friday we did have contact with a
12 witness that did give us some new information that we
13 have. My client has indicated to me that there may be an
14 additional witness that he has not had the chance to get
15 the full name of yet.

16 Also, his family has retained an organization that
17 I'm not really familiar with called the NLPA. It is an
18 organization of lawyers and paralegals who can assist in
19 legal proceedings. So they hired them, and they gave
20 them money, and they would like time for this
21 organization to investigate the case. I spoke with
22 somebody at the organization and they emailed me a
23 brochure. So I am aware of them. My client did, and his
24 family indicated that they did give these people money so
25 they want them to have an opportunity to look into the

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1 case. So based on those new facts and potential new
2 evidence and new witnesses, and this organization as
3 well, we would request a continuance. My client feels
4 that's very important so I'd like to make that motion on
5 his behalf, Your Honor.

6 THE COURT: The State's response?

7 MS. FRIERSON: Thank you, Your Honor. May it
8 please the court? The defendant has been ongoing as
9 Your Honor knows from previous meetings in chambers, back
10 on August 22nd of last year he was served with life
11 without parole notice.

12 And at that time the only thing that prohibited us
13 from scheduling it right away was Mr. Cobb, his attorney
14 at the time was retiring and we agreed to hold off until
15 we could figure out who his new attorney would be in
16 order to either determine a global offer or determine
17 which case was going to trial. As far as this particular
18 trial the notice I believe was served on Mr. Cochran on
19 either the 9th or 11th of November of last year.

20 So the State's position is the defendant has known
21 for a long time that this was coming. We were waiting on
22 like I said Mr. Cobb being relieved and Mr. Cochran or
23 someone being appointed. So this is kind of late in the
24 game. We also have none of the information on this new
25 witness. We don't have any information on a name or what

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1 the substantive information is that they have. So we
2 would respectfully request that Your Honor deny their
3 motion for continuance.

4 THE COURT: Okay. Do you wish to reply?

5 MR. COCHRAN: That's all, Your Honor.

6 THE COURT: Well, he's incarcerated right now is he
7 not? So as a practical matter you have -- the witnesses
8 from what I saw thus far seem to be connected with the
9 agencies in this locale.

10 MS. FRIERSON: We had to fly one in from New York,
11 Your Honor. Our first witness flew in yesterday.

12 THE COURT: Who was that?

13 MS. FRIERSON: Detective Gill who was formerly with
14 Charleston Police Department. He's now with Homeland
15 Security.

16 THE COURT: Okay. What's the benefit of the
17 witness that you've had -- what's the significance of
18 that witness?

19 MR. COCHRAN: Your Honor, well we still need to
20 talk to him. It's potentially someone who has connection
21 with a telephone that is being attributed to my client;
22 that was one of the telephones at issue at the pretrial
23 in terms of the statement that my client gave to law
24 enforcement. It is somebody who may or may not have had
25 connection to that. My client has indicated to me that

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1 this is a person who is incarcerated so we would be able
2 to find him once we get his full name.

3 THE COURT: That's fine. Well the issue that it
4 creates because what this case from my observation we
5 have a person who is going to testify I assuming because
6 there is no other way to put the tape in that the
7 confidential informant is going to testify; he is there.
8 This isn't somebody that was -- this is somebody that
9 knew the defendant personally and had long time dealings
10 with him.

11 And this case as I've said all along isn't that
12 complicated. It's a case of I went at the request of the
13 police and purchased drugs from the defendant. The
14 defendant is clearly shown on the video but the person is
15 going to say he drove up and he waited on him and he had
16 telephone conversations with him. It's not as though he
17 didn't already know the defendant's telephone number. He
18 didn't have to get that from the police officer; he knew
19 it.

20 In fact I think his phone he was showing it -- I
21 don't know whether that was -- the only thing that was
22 confusing was when he showed the number of times his
23 number appeared or his name appeared on his phone it was
24 multiple times. So at this point your motion is noted
25 and denied. Thank you, sir.

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1 MR. COCHRAN: Yes, Your Honor.

2 THE COURT: Anything else?

3 MS. FRIERSON: Nothing from the State, Your Honor.

4 THE COURT: Do y'all have voir dire?

5 MR. COCHRAN: We don't have any particular voir
6 dire, Your Honor.

7 THE COURT: That's fine.

8 MS. FRIERSON: I believe ours was submitted.

9 THE COURT: It is. Okay, we've got the jury so
10 let's bring them in. How long do you think it will take?

11 MS. FRIERSON: Your Honor, I think we could
12 potentially argue and charge tomorrow afternoon unless
13 they put up a case.

14 MR. COCHRAN: Your Honor, could we approach?

15 THE COURT: Sure.

16 [Whereupon, an off the record bench conference is
17 held]

18 THE COURT: Hold them up just for a second. Mr.
19 Wright, your lawyer has advised that you want to dismiss
20 your attorneys and proceed representing yourself, is that
21 correct?

22 MR. WRIGHT: Yes, sir.

23 THE COURT: So you're going to handle the case
24 yourself?

25 MR. WRIGHT: Yes, sir. Here today.

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1 THE COURT: Sir?

2 MR. WRIGHT: Here today.

3 THE COURT: So you understand the complications of
4 that?

5 MR. WRIGHT: Not exactly.

6 THE COURT: Why should I accept that; to set you up
7 to do what? Do you understand that if you fire your
8 lawyers first of all, and I need to explain this one to
9 you because a guy that represented himself in a murder
10 trial years ago in Berkeley County then filed a PCR. The
11 problem was he had to PCR himself because he was his own
12 lawyer. And you don't have a PCR against yourself.

13 You have a constitutional right, and while I took an
14 oath, I think that's the worst thing any person could do
15 especially in your situation here today. But I can't let
16 my feeling about that override my application of the law
17 and the law says you have the right do to that if you
18 want to. That's your decision. But that's what you want
19 to do?

20 MR. WRIGHT: Your Honor, I would like to fire my
21 lawyer because I don't feel comfortable being we had a
22 bad argument in the holding cell. I feel like he's not
23 representing me to the best of his ability. I know he
24 could do much better. I feel like I'm not being ---

25 THE COURT: --- well, if you fire him you're

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1 representing yourself. And that's what you want to do;
2 you want to represent yourself?

3 MR. WRIGHT: Yes, sir.

4 THE COURT: And we're about to pick a jury.

5 MR. WRIGHT: Yes, sir.

6 THE COURT: So the State is going forward.

7 MR. WRIGHT: Yes, sir.

8 THE COURT: You're prepared to cross-examine your
9 witnesses?

10 MR. WRIGHT: No, sir. I need time to prepare for
11 my ---

12 THE COURT: --- no sir. You firing your lawyer
13 you're telling me I'm ready to go.

14 MR. WRIGHT: I need time to prepare ---

15 THE COURT: --- you don't have it.

16 MR. WRIGHT: I guess I'm ready to go. If you tell
17 me I have to go I'm ready to go ---

18 THE COURT: --- I'm telling you this case has been
19 set for trial and your lawyers, whether you agree with
20 them or not -- frankly do you have any legal training at
21 all?

22 MR. WRIGHT: Yes sir, kind of. I have some.

23 THE COURT: Tell me what your legal training is.

24 MR. WRIGHT: I need time to prepare ---

25 THE COURT: --- no, sir. I want you to tell me. I

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1 just asked you a question; it's a simple question. Do
2 you have any legal training?

3 MR. WRIGHT: Yes, sir.

4 THE COURT: What is that?

5 MR. WRIGHT: Studying law.

6 THE COURT: Okay. When did you start studying
7 law?

8 MR. WRIGHT: [No response]

9 THE COURT: I mean, I'm not trying to -- this is
10 serious business, Mr. Wright. When I ask you a question
11 like that I'm not trying to belittle you. I'm trying to
12 make a determination that I have to make that you are
13 doing something that you truly want to do. Reading the
14 law is nothing. Anybody that can read can read it and
15 you're an intelligent person. I've already witnessed
16 that and acknowledged that.

17 But you're making I think a very, very serious
18 mistake to proceed representing yourself. But you have
19 the right to do that notwithstanding my opinion about it.
20 The fact that you don't like your lawyers probably is
21 because they've been telling you the realities of what
22 this proceeding is about and you've not wanted to hear
23 that. And the record is replete with your demonstration
24 of that. For instance, turning down a time sentence
25 where it would have provided life without parole and then

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1 making the statement you've got to give me a better deal.

2 MR. WRIGHT: Your Honor, please can I ask you
3 something?

4 THE COURT: I'm finished -- when I'm finished you
5 can say anything you want. I'm just saying that that
6 reflects that you really may have read the law but you
7 don't understand it because you aren't entitled to a deal
8 in the first place. Nobody is entitled to a deal. You
9 are the author of your dilemma by your prior record.
10 That's what creates the life without parole. The State
11 didn't have to offer you anything; but they did and you
12 turned it down.

13 And we tried to get you to understand. Your lawyers
14 tried to get you to understand that but you just simply
15 refuse to accept reality. And that's what you're doing
16 right now. You're refusing to accept the reality of
17 you're going to trial. And I don't know what the State
18 -- I don't know whether they are going to be successful
19 or not but from what I've seen the evidence is somewhat
20 compelling.

21 But I'm not going to be on the jury. It doesn't
22 matter what I think about it. It matters what those
23 people are going to think about it. But somebody is
24 going to come in here and testify that he's bought drugs
25 from you for a long time and he knows you. He set up a

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1 deal. You're videoed. You came and you were smiling.
2 He gave you a skateboard and you talk about that to him.
3 So I mean it's not this -- you weren't entrapped; that's
4 for sure. So clearly it's a situation of it is what it
5 is and lawyers can't make facts disappear. And that's
6 what you have to do, but if you want to proceed
7 representing yourself because you don't want your lawyers
8 I have to acknowledge that's your right. But is that
9 really what you want to do? Now you said you wanted to
10 say something and I'll be happy to hear from you.

11 MR. WRIGHT: Me and my attorney haven't had time to
12 study the case. My lawyer -- before my attorney even
13 came and saw me at the county jail he agreed to a trial
14 date with Ms. Lauren without consulting me or going over
15 the case with me without even -- we don't have a
16 strategy, Your Honor, to be honest with you. We haven't
17 agreed to a strategy together.

18 THE COURT: Well, first of all you don't pick the
19 strategy because you're not guilty, which means I didn't
20 have anything to do with this. That's what not guilty
21 would be. I didn't sell this man drugs. That wasn't me;
22 I don't know. And if you're not the person that was
23 seen on that video then you can't add anything by talking
24 -- there is nothing a lawyer can gain from you because
25 you don't know because you weren't there. That's really

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1 what the strategy is; I wasn't there.

2 MR. WRIGHT: Your Honor, we're talking about a life
3 without parole.

4 THE COURT: Sir, we're talking about life without
5 parole that doesn't have a thing to do with this case.
6 It has to do with your record and getting convicted in
7 this case. And all that had to do with that is does the
8 State have a strong case against you. You bet it does.
9 Now is a jury going to convict you? I don't know. I
10 don't know what is going to happen. But this is a strong
11 case because it's not that complicated. That's the
12 problem.

13 You're trying to use a strategy of we need to have a
14 strategy and talk. Well, that's where the case is
15 complex. This isn't one of those cases; seriously. It
16 is not that complicated. The elements the State has to
17 prove is that this guy -- you sold a guy some drugs.
18 There is money that we see changing hands. The guy is
19 going to testify to that. You talked about negotiating
20 more for meet me so you're involved in this. So there is
21 evidence of all of that. And if they prove that those
22 were drugs, that you were the person, that's it; it's
23 over.

24 MR. WRIGHT: Your Honor, I need to be evaluated,
25 Your Honor, please sir can I be evaluated ---

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1 THE COURT: --- why ---

2 MR. WRIGHT: --- I didn't make it past -- I don't
3 have a second grade education.

4 THE COURT: Well, that's doesn't ---

5 MR. WRIGHT: --- please, Your Honor ---

6 THE COURT: --- Mr. Cochran, you've never seen
7 anything -- he's already responded. Let the record
8 reflect he's been talking with me and responding to all
9 of my questions. He said he has read the law, which
10 demonstrates he is fully competent and knows fully what
11 is going on.

12 He understands who is -- what my role is. He
13 understands the jury's role. He's demonstrated over and
14 over that he understands the Solicitor's role. He even
15 addressed the Solicitor directly on the record, which
16 clearly shows his competence. So there is no basis for
17 the evaluation. Mr. Cochran, you're not aware of
18 anything that would lead you to concern about his
19 competence are you?

20 MR. COCHRAN: No, Your Honor.

21 THE COURT: Very well.

22 MR. WRIGHT: Ms. Lauren, will you please tell me
23 about my scores with the evaluation I took?

24 THE COURT: Again, what your mental ability is
25 isn't the question; it's whether you're competent. Yes,

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1 ma'am?

2 MS. FRIERSON: Your Honor, may I respond?

3 THE COURT: Sure.

4 MS. FRIERSON: I would like to if Your Honor would
5 accept it put in a copy of his evaluation competency ---

6 THE COURT: --- so there was one done?

7 MS. FRIERSON: There was one done. It was done by
8 the Department of Disability and Special Needs. It was
9 done this past June. Is there the presence of an
10 intellectual disability? They have marked as no.
11 Competency to stand trial? Yes. And specifically in
12 their diagnosis they say not only has he been referred
13 before and determined ineligible for services since his
14 scores did not reveal retardation of cognition or
15 adaptive functioning.

16 In addition his performance during the evaluation
17 was better than would be expected for someone who had an
18 intellectual disability. And they attributed his lower
19 I.Q. specifically to his chronic truancy and poor work
20 ethic. So, If Your Honor would like I could put a copy
21 in the ---

22 THE COURT: --- we'll make that court's exhibit 1
23 and basically that's after the defendant requested that
24 himself.

25 MS. FRIERSON: Did you want to review it, Your

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1 Honor?

2 THE COURT: No, I trust what you've told me because
3 it confirms what my observations were of the defendant
4 thus far.

5 [Whereupon, court's exhibit number 1 is marked by
6 the court reporter]

7 THE COURT: I find nothing to indicate that he is
8 suffering from any defect of disability; mentally or
9 otherwise. Are we ready for the jury? My question is
10 are you going to represent yourself or do you want your
11 lawyers to stay on?

12 MR. WRIGHT: [No response]

13 THE COURT: Mr. Cochran, are you prepared?

14 MR. COCHRAN: I am prepared, Your Honor, yes.

15 THE COURT: I know you are. And you are as well?

16 MR. MACK: Yes, sir.

17 THE COURT: What is your desire? You want them
18 dismissed?

19 MR. WRIGHT: To go forward, Your Honor.

20 THE COURT: With your lawyers?

21 MR. WRIGHT: Yes, sir.

22 THE COURT: Very good. I agree with that decision.
23 That's a very wise decision on your part. The court
24 finds it really was just in essence to everything that
25 followed, and then the request for a competency

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1 evaluation, which has already been done without any need
2 for another, to be again an attempt to just accomplish
3 what the defendant has been trying to do; and that's to
4 delay this process. Let's bring in our jury ---

5 MR. COCHRAN: --- Your Honor, may we have one
6 moment?

7 THE COURT: Yes, sir.

8 [Whereupon, counsel confer]

9 MR. COCHRAN: Your Honor, my client has indicated
10 he wants to plead guilty and has asked me to request of
11 the Solicitor if that 18 year deal or 20 year deal would
12 be available.

13 MS. FRIERSON: I would have to go back to ask my
14 boss, Your Honor.

15 THE COURT: What's the maximum sentence you can
16 give him?

17 MS. FRIERSON: For this charge right now, Your
18 Honor, he's looking at 10 to 30. If he was going to -- I
19 think the only way ---

20 THE COURT: --- ask them if they will give 30 -- if
21 they would take 30.

22 MR..WRIGHT: Your Honor, please; I'm sorry I upset
23 you.

24 THE COURT: You didn't upset me, sir.

25 MR. WRIGHT: Your Honor, please.

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1 THE COURT: You didn't upset me. Do you understand
2 what 30 is versus life? Do you understand that? Do you
3 appreciate that? As your lawyer said all along it
4 started out at 15 I think and you turned that down. Find
5 out if they're willing to accept any figure and let me
6 make the call. Let me make the call from -- more than 18
7 but let me make the call.

8 MS. FRIERSON: You're going to make the call?

9 THE COURT: No, no. Let me determine what the
10 total should be if they're willing. But it will be more
11 than 18.

12 MS. FRIERSON: Okay.

13 THE COURT: That takes you out of the loop of
14 having to recommend anything. But you would take life
15 without parole off the table.

16 MR. COCHRAN: Would Your Honor be willing to have
17 Ms. Wilson consider 20 years? The Solicitor was going to
18 go to her or would you rather ---

19 THE COURT: --- she can consider it. I'll do
20 whatever they do. I'm just simply saying if that doesn't
21 work see if you'll let me make the call.

22 MS. FRIERSON: Thank you, Your Honor.

23 MR. COCHRAN: Thank you.

24 MR. WRIGHT: Your Honor, I'm sorry.

25 THE COURT: That's all right, Mr. Wright. You

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1 don't need to apologize, sir.

2 MR. COCHRAN: Thank you for your patience, Your
3 Honor.

4 THE COURT: No problem. Thank y'all for your
5 effort. And thank you for -- let me say this to you; and
6 I say it behind your backs so I'll say it to your faces.
7 You guys are a credit to the profession. You really,
8 really are, and your office is. I appreciate what you
9 guys do day in and day out and I mean that sincerely. It
10 really is an honor and privilege to serve with you; both
11 of you and your entire offices.

12 MR. COCHRAN: Thank you, Your Honor.

13 [Whereupon, court is in recess from 12:00 p.m. until
14 12:08 p.m.]

15 THE COURT: Thank you for going back, Solicitor. I
16 appreciate that.

17 MS. FRIERSON: Thank you, Your Honor. Your Honor,
18 it's my understanding he'd like to enter a plea for a
19 negotiated 25 years. Would you like me to get the other
20 sheets?

21 THE COURT: You can or you can tell me what are the
22 penalties on those -- if you will that would be fine.

23 MS. FRIERSON: Thank you, Your Honor. Those
24 sentencing sheets are being brought over, Your Honor.

25 [Off the record momentarily]

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1 THE COURT: Are we ready to go?

2 MS. FRIERSON: Do you want to know which ones he is
3 pleading to out of that stack?

4 THE COURT: Yes.

5 MS. FRIERSON: The first one is 2014 ending in
6 3515, trafficking cocaine.

7 THE COURT: Okay.

8 MS. FRIERSON: The second would be 2015-5649;
9 distribution of cocaine.

10 THE COURT: Okay.

11 MS. FRIERSON: 2015-5651; distribution of cocaine.

12 THE COURT: Okay.

13 MS. FRIERSON: 2015-5652; trafficking cocaine.

14 THE COURT: Okay.

15 MS. FRIERSON: And then the next three are all
16 stolen firearms; it's 2015-5655, 5656, 5657. It should
17 be a total of seven, Your Honor.

18 THE COURT: All right. As for the trafficking and
19 the distributions would they all result in penalties --
20 what is it 15 to 30?

21 MS. FRIERSON: Initially they are all thirds. But
22 the trafficking the 2014-3515 is an over 200 gram
23 trafficking. That's a third and that's 25 years. All
24 the distributions are 10 to 30 and the other trafficking
25 cocaine was also a third, which would be 25 to 30. And

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1 on the 10 to 28 gram we're allowing him to plead to the
2 second, which would be five to 30, Your Honor.

3 THE COURT: So the trafficking -- both trafficking
4 cocaine would have been a 25 year sentence?

5 MS. FRIERSON: Would have been, yes Your Honor.

6 THE COURT: A minimum sentence?

7 MS. FRIERSON: Yes, Your Honor.

8 THE COURT: But what's in the offer as I understand
9 Mr. Cochran is he will plead to everything with a 25 year
10 sentence.

11 MR. COCHRAN: Yes, Your Honor.

12 THE COURT: All right.

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State v Timothy Montez Wright
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1 GUILTY PLEA

2 THE COURT: Mr. Wright, through your lawyers they
3 have advised the court that you are prepared to enter a
4 guilty plea, is that correct, sir?

5 MR. WRIGHT: Yes, sir.

6 THE COURT: Well, let's have one understanding
7 right off the bat because one of the things that I've had
8 the privilege of doing is talking to you on numerous
9 occasions. And I appreciate your candor. I appreciate
10 the emotional aspect of what we're doing; I really do.
11 And I appreciate the courtesies that you have extended to
12 this court throughout. And I realize how difficult this
13 decision has to be.

14 But one thing you have to be doing now is you have
15 to convince me that you want to give up something as you
16 know we just talked about that something about your right
17 to represent yourself. And I expressed on the record my
18 feelings about that being a serious mistake. But I took
19 an oath to uphold the Constitution of this state and the
20 United States and the Constitution affords you that
21 right; notwithstanding my personal feelings about it.

22 And I was prepared then and I am prepared now to
23 provide you with a constitutionally fair trial on this
24 case. And you have to make sure that you convince me
25 that that's what you want to do; you want to give up the

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1 right to have the State prove you guilty on these
2 charges? Do you understand that, sir?

3 MR. WRIGHT: Yes, sir.

4 THE COURT: Okay. So when you answer my questions
5 please keep that in mind because if I sense that you
6 don't want to do this I'm not going to accept it because
7 it's a negotiated sentence and your lawyers have talked
8 to you about that?

9 MR. WRIGHT: Yes, sir.

10 THE COURT: A negotiated sentence means that I
11 can't change anything. My options are to accept it or
12 reject it. Do you understand that?

13 MR. WRIGHT: Yes, sir.

14 THE COURT: And basically it would be to give you a
15 25 year sentence on each of these charges because the
16 trafficking would be five to 30 is that right, which
17 would allow me -- if he's pleading to that it removes the
18 25 mandatory but -- so I would give you 25 on all of the
19 drug charges. The distribution would carry the same
20 thing. It would be what 15 to -- is it 15 to 30?

21 MS. FRIERSON: Ten to 30 ---

22 MR. COCHRAN: --- ten to 30.

23 THE COURT: Ten to 30 but 25 is available for that.
24 The firearms would be five years I think for each of
25 those, is that correct?

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1 MR. COCHRAN: Yes, Your Honor.

2 THE COURT: And then all of that would be running
3 concurrently, do you understand that?

4 MR. WRIGHT: Yes, sir.

5 THE COURT: And you'd be given credit for time that
6 you've served on each one of these. Do you understand
7 that?

8 MR. WRIGHT: Yes, sir.

9 THE COURT: Okay. And you understand that you'll
10 have to convince me that that's what you want to do; that
11 you want me to impose a 25 year sentence. Do you
12 understand that?

13 MR. WRIGHT: Yes, sir.

14 THE COURT: Okay. Understanding then Mr. Wright
15 that on indictment 2015-5649 charging you with
16 distribution of cocaine while I could have sentenced you
17 up to 30 years on that I would impose a 25 year sentence
18 and give you credit for time served. How do you plead;
19 guilty or not guilty?

20 MR. WRIGHT: Guilty, sir.

21 THE COURT: Okay. 2015-5652 charges you with
22 trafficking crack cocaine. While the indicted amount
23 would be 25 to 30 you're pleading you to a second which
24 allows me to sentence you to 25 years. It would be five
25 to 30 I think or five to 25. Five to 25 isn't it?

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1 MS. FRIERSON: It's five to 30, Your Honor.

2 THE COURT: Five to 30. Do you understand I'm
3 going to sentence you to 25 years for that, sir?

4 MR. WRIGHT: Yes, sir.

5 THE COURT: How do you plead?

6 MR. WRIGHT: I plead guilty, sir.

7 THE COURT: 2015-5651 charges you with distribution
8 of cocaine. Do you understand that?

9 MR. WRIGHT: Yes, sir.

10 THE COURT: And for the level you would be pleading
11 to I could sentence you to 25 years for that, do you
12 understand that? I could sentence you up to 30 but I
13 would accept and impose the 25 year sentence, do you
14 understand that?

15 MR. WRIGHT: Yes, sir.

16 THE COURT: How do you plead?

17 MR. WRIGHT: Guilty.

18 THE COURT: 2014-3515 another trafficking charge
19 and based on the second offense I could sentence you up
20 to 25 years and could go up to 30 but I would accept the
21 25. How do you plead?

22 MR. WRIGHT: Guilty.

23 THE COURT: Indictments 2015-5657, 5655, and 5656
24 charge you with being in possession of stolen handguns.
25 Each of those sentences carries a potential five year

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1 sentence. Do you understand that?

2 MR. WRIGHT: Yes, sir.

3 THE COURT: And I would -- and if I accept the
4 negotiated sentence I would impose a five year sentence
5 and give you credit for time served. How do you plead?

6 MR. WRIGHT: Guilty.

7 THE COURT: Are you satisfied with your lawyers?

8 MR. WRIGHT: Yes, sir.

9 THE COURT: Is there anything they didn't do for
10 you that you think they should have done for you?

11 MR. WRIGHT: No, sir.

12 THE COURT: Are you under the influence of any
13 alcohol or any type of medication, drugs or medication
14 here today, sir?

15 MR. WRIGHT: No, sir.

16 THE COURT: You had sufficient time to talk with
17 your lawyers? I know you wanted additional time to
18 continue the case but have you had sufficient time to
19 talk with your lawyers about this plea?

20 MR. WRIGHT: Yes, sir.

21 THE COURT: And this is what you have chosen to do,
22 is that correct?

23 MR. WRIGHT: Yes, sir.

24 THE COURT: Solicitor, other than the 25 years on
25 the charges that would permit that and five on the other

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1 charges any other agreements that you have?

2 MS. FRIERSON: There are several charges that will
3 be nol prossed; a PWID cocaine close proximity and a PWID
4 marijuana as well as a possession of cocaine that would
5 be nol prossed pursuant to this plea.

6 THE COURT: Is that your understanding, Mr.
7 Cochran?

8 MR. COCHRAN: Yes, Your Honor.

9 THE COURT: You and Mr. Mack have had the
10 opportunity to discuss this matter fully with your
11 client?

12 MR. COCHRAN: Yes, Your Honor.

13 THE COURT: And you have negotiated this sentence?
14 You've been working diligently negotiating sentences for
15 him throughout this entire process you and other
16 attorneys that have been representing him?

17 MR. COCHRAN: Yes, Your Honor.

18 THE COURT: And now we're back after having the
19 last one taken off the table and you were able to, with
20 the Solicitor's willingness, to cooperate to have a
21 restored version of it at least and avoided life without
22 parole.

23 MR. COCHRAN: Yes, Your Honor.

24 THE COURT: Do you believe the negotiated sentence
25 to be in your client's best interest?

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1 MR. COCHRAN: Yes, Your Honor.

2 THE COURT: Have you explained to him the rights
3 that he will be relinquishing and the consequences of
4 this decision to ask me to impose a negotiated sentence?

5 MR. COCHRAN: Yes, Your Honor.

6 THE COURT: He fully understands and appreciates
7 both?

8 MR. COCHRAN: He does, Your Honor.

9 THE COURT: Based on your investigation do you
10 concur with his decision to enter the guilty pleas?

11 MR. COCHRAN: Yes, Your Honor.

12 THE COURT: Mr. Wright, is that your understanding?

13 MR. WRIGHT: Yes, sir.

14 THE COURT: Do you understand that a number of
15 these offenses in and of themselves will be another
16 strike?

17 MR. WRIGHT: Yes, sir.

18 THE COURT: And you understand what that means
19 because you know probably as well as anybody because you
20 were facing up until a few minutes ago life without
21 parole because of your record, do you understand that?

22 MR. WRIGHT: Yes, sir.

23 THE COURT: Now you have increased the likelihood
24 if you would commit another offense, another serious
25 offense do you understand what that would mean?

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1 MR. WRIGHT: Yes, sir.

2 THE COURT: It would most probably be life without
3 parole without any question, do you understand that?

4 MR. WRIGHT: Yes, sir.

5 THE COURT: And you obviously have had a chance to
6 reflect on what that means life without parole because as
7 we've discussed in this proceeding notwithstanding if I
8 felt you deserved a lesser sentence I would not have that
9 option nor would any Circuit Court judge would have that
10 option, do you understand?

11 MR. WRIGHT: Yes, sir.

12 THE COURT: Do you realize if I accept your plea
13 you will not have a jury trial in any of these cases?

14 MR. WRIGHT: Yes, sir.

15 THE COURT: You understand the State is required to
16 prove you guilty beyond a reasonable doubt in each of
17 those situations on those cases?

18 MR. WRIGHT: Yes, sir.

19 THE COURT: You realize that by admitting your
20 guilt the State now will not be required to prove your
21 case -- prove the cases and therefore you won't have an
22 opportunity to see and hear the witnesses testify and to
23 challenge their testimony, you understand that?

24 MR. WRIGHT: Yes, sir.

25 THE COURT: You are also giving up your right to

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1 remain silent, do you realize that?

2 MR. WRIGHT: Yes, sir.

3 THE COURT: And that's a significant right that you
4 have because as I told you in a number of the situations
5 one of the first things I'm going to tell a jury is don't
6 look to Mr. Wright to prove or disprove anything because
7 he doesn't have to.

8 Persons accused of criminal violations do not have
9 to explain anything. They don't have to offer any
10 evidence. They don't have to say a word because the
11 State and the State alone has the burden of proving your
12 guilt. Do you understand that?

13 MR. WRIGHT: Yes, sir.

14 THE COURT: And that means they have to prove each
15 element of the crimes charges to the standard that the
16 jury has to be firmly convinced that you -- that that
17 fact has been established. And they have to be firmly
18 convinced that each fact has been established before they
19 can return a verdict of guilty, do you understand that?

20 MR. WRIGHT: Yes, sir.

21 THE COURT: Okay. Is it your decision to give up
22 these rights, sir?

23 MR. WRIGHT: Yes, sir. Excuse me; yes sir.

24 THE COURT: Mr. Wright, as I've said to you and
25 while I have never stood where you're standing I can't

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1 really say I totally emphasize with your situation. But
2 I can say I fully understand and appreciate because I've
3 been doing this for almost 23 years, well this month will
4 be 23 years. And you know something? There are times I
5 don't mind imposing a sentence but they are very, very
6 few. I can't say I've derived any great pleasure out of
7 putting people in jail. I have to do it because that's
8 part of my job. And I understand how emotional it is; I
9 really do.

10 So don't you apologize to me, sir for your show of
11 emotion. You're entitled to do that. This is your
12 courtroom and you're entitled to it. But thank you for
13 your apology; but it's not necessary, sir. Most
14 importantly I want to be sure this is what you want to
15 do. And is this what you want to do?

16 MR. WRIGHT: Yes, sir.

17 THE COURT: You certainly understand the benefit
18 obviously as opposed to life. You're how old again; 34?

19 MR. WRIGHT: Thirty one, sir.

20 THE COURT: Thirty one. This sentence would result
21 according to my math if I impose the 25 years your
22 lawyers have told you it's a non-paroleable sentence
23 except on the gun charges, but those would be subsumed in
24 the whole process. It means that you will serve 21.25
25 years, do you understand that; before being released?

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1 MR. WRIGHT: [Nods affirmatively]

2 THE COURT: And if you're successful in completing
3 the 85 percent it means that when you're released you'll
4 have to complete a two year community supervision
5 program, do you understand that? You need to answer so
6 the court reporter can take down your responses?

7 MR. WRIGHT: Yes, sir.

8 THE COURT: And if you're not successful a judge
9 can return you to prison in increments of up to one year
10 for the remaining portion of your sentence. That would
11 be according to my math 4.75 years. Do you understand
12 that?

13 MR. WRIGHT: Yes, sir.

14 THE COURT: No, 3.75 years. I'm sorry; my math is
15 not very good. Do you understand that?

16 MR. WRIGHT: Yes, sir.

17 THE COURT: But, and that's a big one, you will be
18 able if you are successful you will be able to be out
19 when you're 52, which would not have happened under the
20 other, do you understand that; if the State could convict
21 you, do you realize that?

22 MR. WRIGHT: Yes, sir.

23 THE COURT: Okay. And we haven't really talked
24 about the other charges but obviously several of the
25 other charges would have also been a strike so you were

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1 facing a number of chances the State would have had to
2 obtain a life without parole, do you realize that?

3 MR. WRIGHT: Yes, sir.

4 THE COURT: So it's your desire to do this global
5 resolution and plead to all these charges?

6 MR. WRIGHT: Yes, sir.

7 THE COURT: Okay. Again, you're not under the
8 influence of any alcohol or any medications, sir?

9 MR. WRIGHT: No sir, Your Honor.

10 THE COURT: Okay. Solicitor, if you want to tell
11 me the facts please?

12 MS. FRIERSON: Thank you, Your Honor. May it
13 please the court? Beginning with indictment 2014-3515
14 that would be the trafficking of cocaine 20 to 100 grams
15 on January 2nd, 2014 Charleston Police Department
16 narcotics executed a search warrant at [REDACTED] Smith Street
17 in Charleston County after receiving tips that the
18 defendant was selling drugs from the apartment.

19 They had a search warrant that was based on
20 information not only from a C-I but trash pulls where
21 detectives located several bags with cocaine residue,
22 marijuana stems, and marijuana cigarettes. During the
23 search detectives located 1,175 dollars, miscellaneous
24 paraphernalia for drugs to include grinders and scales, a
25 bottle of what is commonly known as Cut -- Isotol

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1 [phonetic] and 261.8 grams of cocaine with a street value
2 of 9,000 dollars. It was located in the same bedroom as
3 men's clothing, miscellaneous paperwork in the
4 defendant's name; pictures of the defendant in men's
5 clothing matching the size of the defendant were located
6 throughout the apartment.

7 The defendant was not home at the time so officers
8 went to an address at [REDACTED] Fort Johnson Road also in
9 Charleston County where they were familiar with the
10 defendant living. They observed him exit the driver's
11 seat of a vehicle that resulted in the marijuana charges
12 that are being dropped. But they made contact and
13 arrested the defendant. At the time of his arrest he had
14 the keys for [REDACTED] Smith Street in his pocket.

15 Regarding the indictment 2015-5649, the one we were
16 prepared to go to trial on that was a buy that occurred
17 on February 11, 2015 when the defendant sold cocaine to a
18 confidential informant working under the direction and
19 control of Charleston Police Department narcotics in the
20 area of Wesley Drive and Savannah Highway in Charleston
21 County.

22 The C-I exchanged 160 dollars in prerecorded funds
23 for 2.89 grams of cocaine from the defendant. And that
24 transaction was audio video recorded and the C-I
25 indentified the defendant in a photo lineup.

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1 Indictment number 2015-5651 corresponds to a buy
2 that occurred on March 3rd of 2015 where the defendant
3 sold cocaine to a C-I who was working for Charleston
4 narcotics in the area of King and Mary Street. This
5 transaction the C-I exchanged 150 dollars for cocaine and
6 that transaction was also audio recorded.

7 Indictment number 2015-5652 occurred on March 17,
8 2015 wherein the defendant sold cocaine to a C-I working
9 for Charleston Police Department narcotics in the area of
10 King and Mary Street. That was 400 dollars in
11 prerecorded funds for a quantity of cocaine later
12 determined to be 13.89 grams. That transaction was also
13 recorded.

14 The remaining three indictments 5655, 5656, and 5657
15 were as a result of a search warrant that was done on May
16 14, 2015. It was executed at [REDACTED] Delta Street,
17 Apartment [REDACTED] in North Charleston. The defendant was
18 located sleeping in the residence with four firearms;
19 three of which had previously been reported stolen. Also
20 located were three cell phones.

21 Of significance there, Your Honor is that during a
22 post Miranda interview with detectives the defendant
23 acknowledged that the guns were stolen. He also
24 acknowledged those three cell phones were his and
25 proceeded to give the phone numbers corresponding to

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1 them, which corresponded to the phone numbers that were
2 used during the controlled buy that was previously
3 mentioned. Additionally the truck that the defendant had
4 used for the buy we were going to try from February 11th
5 was registered to his girlfriend at that address.

6 As you know we've negotiated a 25 year concurrent
7 sentence. The defendant has 640 days credit by my
8 calculation.

9 THE COURT: Okay.

10 MS. FRIERSON: And his prior record, Your Honor, is
11 a 2003 voluntary manslaughter and PWID crack; 2004
12 driving under suspension, PWID crack, distribution of
13 crack close proximity and a distribution of crack; and in
14 2012 false information and failure to appear. And we
15 just respectfully request you accept the negotiated plea,
16 Your Honor.

17 THE COURT: Thank you very much, Solicitor. Mr.
18 Wright, are those facts correct, sir?

19 MR. WRIGHT: Yes, sir.

20 THE COURT: Have you truthfully responded to all of
21 my questions?

22 MR. WRIGHT: Yes, sir.

23 THE COURT: The answers that you've given to me are
24 your answers?

25 MR. WRIGHT: Yes, sir.

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1 THE COURT: Not something somebody has told you or
2 suggested that you have to tell me so that you can sort
3 of quote get through this plea?

4 MR. WRIGHT: No, sir.

5 THE COURT: And it's your desire to come forward
6 now and enter this plea?

7 MR. WRIGHT: Yes, sir.

8 THE COURT: Nobody has threatened you in any way to
9 get you to plead guilty?

10 MR. WRIGHT: No, sir.

11 THE COURT: Other than the promises that are
12 contained in the negotiated sentence any other promises
13 been made to you?

14 MR. WRIGHT: No, sir.

15 THE COURT: Do you realize and understand that I'm
16 going to be relying on the accuracy of your responses and
17 the completeness of those responses?

18 MR. WRIGHT: Yes, sir.

19 THE COURT: And by completeness I mean that you've
20 understood my question and you've given me a complete
21 answer to each of those questions?

22 MR. WRIGHT: Yes, sir.

23 THE COURT: And you want me to rely on your answers
24 to be truthful and accepted by me as complete?

25 MR. WRIGHT: Yes, sir; please do, sir.

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1 THE COURT: I find that Mr. Wright has had the
2 benefit of very competent counsel in this matter. The
3 record is I think replete with examples with how
4 diligently they fought for him over and over. And they
5 obviously are both very prepared to go forward here
6 today.

7 So I find the plea to be freely, voluntarily,
8 knowingly, and intelligently made and now I'll be happy
9 to hear from you Mr. Cochran and Mr. Mack both if
10 necessary to explain to me why I should accept the
11 negotiated sentence.

12 MR. COCHRAN: Thank you, Your Honor. May it please
13 the court? I haven't known Timothy for long time. But
14 I was appointed to his case after his previous attorney
15 retired. And since that time Timothy has always been
16 very forthright and very upfront of what he wants and
17 doesn't want in this case. And our discussions have been
18 pleasant. He's been a very good client.

19 I think that he was put in a very difficult
20 situation by his actions and also by very stringent
21 sentencing guidelines. He's been scared and he's been
22 indecisive but it's never been because he had a bad
23 attitude. It was always just because he was terrified of
24 the consequences in this case. As you can see he's got a
25 lot of family and community support here today, Your

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1 Honor. They were all praying outside in the hallway for
2 him. They all take this very seriously and they hate to
3 see this happening to him. But I agree with this
4 sentence and we would ask Your Honor to accept this
5 sentence because this is a sentence that Timothy can
6 survive.

7 And I think that that matters because his life is
8 going to be worth something when he gets out. He will
9 get to have children. He will be able to live a life
10 when he gets out. So that's why I concur with the
11 decision because I would hate to see him go up for a life
12 sentence. So respectfully, Your Honor, we would request
13 that you accept this negotiation.

14 THE COURT: Thank you very much. Mr. Wright, is
15 there anything you wish to add, sir?

16 MR. WRIGHT: Thank you for accepting my plea, sir.

17 THE COURT: Well, you're very welcome. And I again
18 I would tell you I'm glad for you that the State is
19 giving you a chance to get out of jail; when I told you
20 before when you turned down some previous offers.

21 The fact that I don't agree with what the mandatory
22 minimums are or the life without parole it doesn't matter
23 because that's the beauty of this county. We are a
24 country of laws and we all -- I took an oath to abide by
25 that and follow the law and honor the law in every

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1 respect. And that's what I have to do. I think and I
2 hope you appreciate and I think you can show that you
3 appreciate the Solicitor's office for what they've done
4 here today because as I've told you before on numerous
5 occasions defendant persons accused of crimes are not
6 entitled to a benefit; they're not entitled to a deal.
7 They're just entitled to a fair trial and the State has
8 to prove them guilty.

9 But you have gotten that and it's really out of the
10 goodness and their willingness to do what I think is
11 probably justice in this case and that is to give you a
12 chance to get out so those folks can have you and
13 experience some more life with you. And I know they'll
14 be there for you and I know they appreciate it. I hope
15 that they take something from this as well that they can
16 share with their friends and loved ones how serious drug
17 involvement can be and where it can lead you.

18 And it's sort of one of those little subtleties that
19 you don't really think about it. And you know the
20 conversation that I saw you and the person who was going
21 to testify in this case you talked about what your plans
22 were and you asked him about his plans and kind of a
23 normal conversation about things. But when you're a
24 person with your record it's just waiting to happen and
25 that's what happened. So I'm going to accept the

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1 negotiated sentence, sir.

2 The sentence of the court therefore is this:

3 On indictments 2015-5657, 5656, 5655 those being
4 each the possession of stolen firearms the sentence is
5 five years concurrent. You're given credit for 640 days
6 towards each of those.

7 The sentence of the court on 2014-3515, 2015-5652,
8 2015-5649 and 2015-5651 each of those being the
9 trafficking, distributions of cocaine each of those is 25
10 years. They are concurrent and you're given credit for
11 649 days. Good luck to you, sir.

12 MR. COCHRAN: Thank you, Your Honor.

13 THE COURT: Thank you, Solicitor.

14 MS. FRIERSON: Thank you, Your Honor.

15 *****END OF TRANSCRIPT OF RECORD*****
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State v Timothy Montez Wright
Certificate of the Court Reporter
February 6, 2017

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth 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 Charleston County,
South Carolina on the 6th day of February, 2017.

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

June 20, 2017

Joyce C. Rueger, CVR-M
Court Reporter

Certified Copy of Transcript provided to the Office of
Attorney General

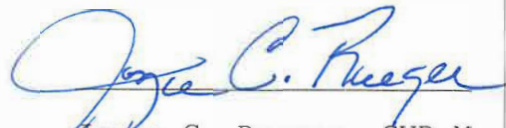
State v Timothy Montez Wright
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February 6, 2017

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June 20, 2017


Joyce C. Rueger, CVR-M
Court Reporter

Certified Copy of Transcript provided to the Office of
Attorney General

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

TIMOTHY MONTEZ WRIGHT)
(Inmate # 00306187))

APPLICANT)

vs.)

STATE of SOUTH CAROLINA)

RESPONDENT)

IN THE COURT OF COMMON PLEAS

APPLICATION

for

POST-CONVICTION RELIEF

2014-GS-10-3515

2015-GS-10-5649

2015-GS-10-5651

2015-GS-10-5652

2015-GS-10-5655

2015-GS-10-5656

2015-GS-10-5657

FILED
2018 FEB -6 PM 4:11
CLERK OF COURT

NOW COMES THE APPLICANT, TIMOTHY MONTEZ WRIGHT (Inmate #00306187), and submits this Application for Post-Conviction relief pursuant to section 17-27-20 et seq. S. C. Code of Laws

1. **Place of detention.** Lee Correctional Institution
900 Wisacky Road
Bishopville S. C. 29210
2. **Name & location of court which imposed sentence.** Hon. Markley Dennis
Charleston County Court of General Sessions.
3. **Names of codefendants.** None.
4. **Indictment numbers.** 2014-GS-10-3515
2015-GS-10-5649
2015-GS-10-5651
2015-GS-10-5652
2015-GS-10-5655
2015-GS-10-5656
2015-GS-10-5657

5. Date & terms of sentence. February 6, 2017.

2015-GS-10-5655, 56 & 57: five (5) years with credit for 640 days served.

2014-GS-10-3515, 2015-GS-10-5649, 51 & 52: twenty-five (25) years with credit for 649 days served.

All sentences to be served concurrently.

6. Guilty plea: Yes.

7. Appeal: No. The Applicant's trial counsel, Charles Cochran, Esq. filed a Notice of Appeal on February 17, 2017, and forwarded the case to the South Carolina Appellate Defense Commission, the Applicant was advised by Robert Dudek, Esq. of the South Carolina Appellate Defense Commission on April 26, 2017 that no file had opened for the Applicant and no appeal would be pursued by the South Carolina Appellate Defense Commission.

8. Not applicable since no appeal subject to the qualification set forth in paragraph 7 hereinabove.

9. Reason for no appeal. The Applicant was advised that there were no grounds for an appeal of the guilty plea.

10. Grounds for Post-Conviction Relief.

(1) Ineffective assistance of my attorneys Charles Cochran, Esq. and Leon Stavrinakis, Esq. as neither was prepared to represent me in a trial when the case was called and Mr. Stavrinakis did not even appear when the case was called.

(2) The trial judge required me to either proceed to trial with only Mr. Cochran present in court over my objections that Mr. Cochran was not prepared to go to trial and that Mr. Stavrinakis was not present.

11. Facts that support grounds for relief.

On February 6, 2017, the Applicant case was called in the Court of General Charleston County before the Hon. Markley Dennis. The Applicant was called to answer and either enter a plea of guilty or proceed to trial in all of the cases listed paragraph four (4) hereinabove. At that time, the Applicant was represented on Indictment # 2014-GS-10-3515 by Leon

Stavrinakis, Esq. and by Charles Cochran, Esq. on the remaining cases; however, only Mr. Cochran was present in court when the cases were called and Mr. Stavrinakis made no attempt to appear personally or in any manner to represent the Applicant when the case was called. Further, Mr. Cochran made no attempt to have Mr. Stavrinakis called to appear And did not advise the Court that he did not represent the Applicant on Indictment 2014-GS-10-3515. Moreover, Mr. Cochran had taken over the representation of the Applicant only a few weeks before the cases were called and was not prepared to go to trial and notwithstanding the Applicant's objection to the Court that Mr. Cochran was not prepared to properly represent the Applicant, the Court required the Applicant to either enter a plea of guilty or go to trial immediately. Given the only alternative offered by the Court, the Applicant entered a plea of guilty. Therefore, the Applicant was denied his right to counsel in Indictment 2014-GS-10-3515 and had ineffective assistance of counsel in the remaining cases.

12. **Prior filings.** A. Petitions in State of South Carolina: None
 B. State or federal habeas corpus or PCR: None
 C. Petitions in U. S. Supreme Court: None
 D. Any other petitions: None
13. **Not Applicable** as no prior petitions have been filed.
14. **Has any ground set forth in paragraph 10 been previously presented in any other court, state or federal.** No. None.
15. **Not applicable** as no prior petitions in any court have been filed.
16. **The grounds set forth in paragraph 10 have not previously been previously presented** because the within Application for Post-Conviction Relief is the proper forum for the initial application for the relief requested under the grounds presented.
17. **The Applicant was represented by the following attorneys.**
 - A. Arraignment & plea: 2014-GS-10-3515: Although the Applicant had retained Leon Stavrinakis, Esq. to represent him on this case, he was not present at the plea hearing.

2015-GS-10-5649 2015-GS-10-5651 2015-GS-10-5652
 2015-GS-10-5655 2015-GS-10-5656 2015-GS-10-5657
 Charles Cochran, Esq.

B. There was no trial.

C. Sentencing: 2014-GS-10-3515: Although the Applicant had retained Leon Stavrinakis, Esq. to represent him on this case, he was not present at the sentencing hearing.

2015-GS-10-5649 Charles Cochran, Esq.
 2015-GS-10-5651
 2015-GS-10-5652
 2015-GS-10-5655
 2015-GS-10-5656
 2015-GS-10-5657

D. Appeal. No appeal.

E. Prior PCR petitions, motions or applications. No prior motions.

18. Name & address of attorneys representing the Applicant in prior proceedings.

2014-GS-10-3515: Leon Stavrinakis, Esq.
 One Cool Blow Lane
 Charleston, S. C. 29043

2015-GS-10-5649 Charles Cochran, Esq.
 2015-GS-10-5651 Charleston County Public Defender's Office
 2015-GS-10-5652 101 Meeting Street
 2015-GS-10-5655 Charleston, S. C. 29401
 2015-GS-10-5656
 2015-GS-10-5657

19. The relief the Applicant is seeking is for the Applicant to be allowed to withdraw his plea of guilty, for his sentence to be vacated and for a new trial to be ordered.

20. The Applicant is not under any sentence from any other court.

Respectfully submitted,

Timothy Montez Wright
Timothy Montez Wright

State of South Carolina)

)

Verification

County of Lee)

)

The undersigned, Timothy Montez Wright, who being first 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 sentencing attacked in this Application; and that the matters and allegations therein set forth are true.

Timothy Montez Wright
Timothy Montez Wright

Sworn to and subscribed before me
this 2nd day of Feb, 2018

[Signature]
Notary Public for S. C.

My Comm. expires: 1-28-23

Craig Law Firm, P.C.

Attorneys & Counselors at Law
2001 Assembly Street, Suite 201
Columbia, South Carolina 29201

Charlie M. Bru Pender
J. Kevin Craig

Of Counsel: James P. Craig

Phone (803) 252-5178
Fax (803) 252-5283

February 2, 2108

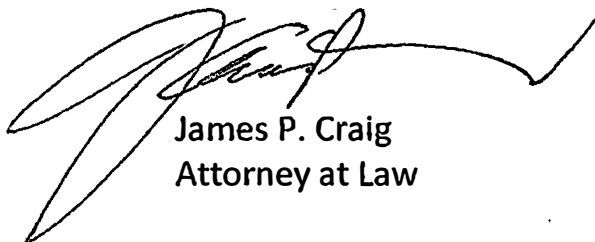
Hon. Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street
Charleston, S. C. 29401

Re: Timothy Montez Wright
Application for Post-Conviction Relief

Dear Madame Clerk of Court:

Enclosed herewith for filing is the Application for Post-Conviction Relief of Timothy Montez Wright. Please file the original, clock in the copies and return them to me in the self-addressed, postage prepaid envelope. If you have any questions, please contact me at the address or telephone number listed above or via email at jcraig@craiglawfirm.com.

Very truly yours,



James P. Craig
Attorney at Law

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Timothy M. Wright, #306187

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

2018-CP-10-599

RETURN

Respondent, making its Return to the application for post-conviction relief (“PCR”) filed on February 2, 2018, would respectfully show this Court:

I.

Timothy M. Wright (“Applicant”) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. Applicant was indicted at the October 2015 term of the Charleston County Grand Jury for three counts of possession of a stolen handgun (2015-GS-10-5655,5656,5657), two counts of distribution of cocaine, 3rd offense (2015-GS-10-5649, 5651) and two counts of trafficking cocaine, 2nd offense (2014-GS-10-3515) and (2015-GS-10-5652). Applicant was represented on those charges by Leonidas Emanuel Stavrinakis, Esquire. Lauren M. Frierson, Assistant Solicitor, prosecuted the case.

On February 6, 2017, Applicant pled guilty to all charges before the Honorable R. Markley Dennis, Jr. Judge Dennis sentenced Applicant to five years each for the possession of a weapon charges, twenty-five years each for the distribution charges, and twenty-five years each for the trafficking cocaine, 2nd offense charges.

Applicant filed a timely notice of appeal. However, on December 1, 2017 the South Carolina Court of Appeals issued the order of dismissal. The Remittitur was sent down on January 2, 2018.

II.

In his current pro se Application, Applicant alleges the following:

1. Ineffective assistance of counsel.

- a. “Ineffective assistance of my attorneys Charles Cochran, Esq. and Leon Stavrinakis, Esq as neither was prepared to represent me in a trial when the case was called and Mr. Stavrimakis did not even appear when the case was called.”
- b. “Trial judge required me to either proceed to trial with only Mr. Cochran present in court over my objections that Mr. Cochran was not prepared to go to trial and that Mr. Stavrinakas was not present.

Attached and incorporated herein are the records of the Charleston County Clerk of Court, Applicant’s record from the South Carolina Department of Corrections, Applicant’s appellate records, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant information.

III.

Respondent submits Applicant’s allegations of ineffective assistance of counsel are without merit and are clearly refuted by the record.

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

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

that [it] cannot be relied upon as having produced a just result.” Strickland, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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

Respondent submits Applicant can satisfy neither requirement of the Strickland test, as Applicant cannot establish he would not have pled guilty but for counsel’s alleged deficiencies, as he knowingly, intelligently, and voluntarily entered his guilty plea. However, the allegations of ineffective assistance of counsel probably raise questions of fact that the record does not

conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

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

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

V.

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

VI.

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

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

RASHEEDA CLEVELAND
Assistant Attorney General

By: *Rasheeda Cleveland*
ATTORNEYS FOR RESPONDENT

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

April 10th, 2018

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	2018-CP-10-599
	)	
TIMOTHY M. WRIGHT, #306187	)	
	)	
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** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

James P. Craig, Esquire
Craig Law Firm, PC
2001 Assembly Street, Suite 201
Columbia, SC 29201

DATED this the 10th day of April, 2018.



 Jennifer Jennison, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2018-CP-10-0599
	)	
	)	
TIMOTHY MARTEZ WRIGHT	)	
	)	
Applicant	)	
	)	
vs.	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
Respondent	)	
	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

July 22, 2019
 Charleston, South Carolina

B E F O R E:

THE HONORABLE MICHAEL G. NETTLES, JUDGE

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

JAMES P. CRAIG, ESQ.
 Attorney for the Applicant

JACOB ISENBERG, ESQ.
 BENJAMIN LIMBAUGH, ESQ.
 Attorneys for the Respondent

JOYCE C. RUEGER, CVR-M
 Circuit Court Reporter

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STATE

<u>No.</u>	<u>Description</u>	<u>Marked / Admitted</u>	
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Post-Conviction Relief Hearing
July 22, 2019

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PROCEEDINGS

THE COURT: Mr. Attorney General, you are
recognized. You may call your first case.

MR. ISENBERG: Thank you, Your Honor. May it
please the Court? The State would call Timothy M.
Wright versus the State of South Carolina and request
that he be brought out into the courtroom.

THE COURT: Very Good.

MR. ISENBERG: And with that we will be ready to
proceed.

THE COURT: All right.

[Whereupon, Mr. Wright enters the courtroom]

THE COURT: All right. I'm going to represent
Applicant -- recognize Applicant's counsel and I want you
to reiterate the grounds that you desire to proceed
forward on here, today.

MR. CRAIG: I'm sorry, Your Honor?

THE COURT: I want you to delineate for the record
the grounds that you are pursuing here today.

MR. CRAIG: We're pursuing the grounds of
ineffective assistance of counsel, Your Honor, on two of
Mr. Wright's attorneys. He had several charges and more
than one attorney on the charges. He had a trafficking
charge on which Mr. Leon Stavrinakis, I think I'm
pronouncing that correctly, represented him. And then

Timothy Wright v State
Post-Conviction Relief Hearing
July 22, 2019

1 later he had some distribution and some unrelated charges
2 and I will just call those the distribution of the new
3 charges. And he had several attorneys in succession
4 representing him on those charges. And he ended up going
5 to trial with a public defender Mr. Charles Cochran. And
6 so the ineffective assistance of counsel allegations are
7 against Mr. Stavrinakis and Mr. Cochran.

8 THE COURT: Very good. And essentially that's
9 really the only grounds is ineffective assistance of
10 counsel against Stavrinakis and Mr. Cochran; that's
11 essentially it?

12 MR. CRAIG: That's it, Your Honor.

13 THE COURT: All right. Very good. You may
14 proceed.

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Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Direct Examination by Mr. Craig
July 22, 2019

1 MR. CRAIG: I call the Applicant, Your Honor.

2 THE COURT: Yes sir, Mr. Wright, I'm going to ask
3 you if you could to please come forward.

4 [Whereupon, the Applicant comes forward]

5 THE COURT: Place your left hand on the Bible and
6 raise your right hand as the Clerk administers the oath.
7 Take your time and approach the Bible and place your left
8 hand on the Bible and raise your right hand.

9 [Whereupon, the witness is duly sworn by the Clerk
10 of Court]

11 THE COURT: Watch your step. Have a seat in the
12 witness chair. I'll ask you to pull up real close to
13 that microphone and speak loudly, clearly, and slowly in
14 order that we can hear everything that you have to say.
15 And let's start with your full name.

16 THE WITNESS: Yes, sir. Timothy Martez Wright.

17 THE COURT: Very good. Yes, sir?

18 MR. CRAIG: Thank you, Your Honor.

19 - - - -

20 TIMOTHY WRIGHT,

21 Having been first duly sworn,

22 Was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CRAIG:

25 Q. You go by Tim, right?

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Direct Examination by Mr. Craig
July 22, 2019

1 A. Yes, sir.

2 Q. Tim, I want you to tell the Judge about the history
3 of your case, okay. So let's start in January of 2014.
4 What did you get charged with then?

5 A. January of 2014 I was charged with a young lady,
6 Latia Murray. Drugs was found in her house. And I
7 didn't have any knowledge of the drugs that was in her
8 house. I wasn't present at the house during the time
9 when the drugs was found in the house.

10 I was on James Island at the time. Police officers
11 came on James Island and arrested me for the drugs that
12 was found in her house. She wasn't home at the time of
13 my knowledge when the drugs was found in her house. She
14 pled to the drugs ---

15 Q. --- don't get ahead of yourself. We'll get to that.

16 A. Yes, sir.

17 Q. What was the charge against you? For trafficking?

18 A. Yes. That was my first trafficking charge, sir.

19 Q. Okay. And did you hire an attorney to represent you
20 on those charges?

21 A. Yes, sir. My sister contacted Mr. Leon Stavrinakis.
22 And my sister paid him some money to represent me on
23 those charges.

24 Q. Was his fee paid in full?

25 A. Yes, sir.

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Direct Examination by Mr. Craig
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1 Q. Okay. Now, you said you had a co-defendant with you
2 on those charges. That's Latia Murray, is that what you
3 said?

4 A. Yes, sir.

5 Q. And did she later plead guilty to those charges?

6 A. Yes, sir.

7 Q. Okay. What did you do in response to those charges?

8 A. I was asking Mr. Leon Stavrinakis from the time that
9 I hired him I told him that I didn't put any drugs in
10 that young lady's house and that I would like to go to
11 trial for it.

12 At the time I didn't already paid him yet. This was
13 in 2014. The young lady, Latia Murray, wrote a statement
14 explaining that the drugs that were found in her house
15 she never saw me with any drugs and I never put any drugs
16 in her house. This was before she even pled.

17 Q. And did she take a copy of that statement to Mr.
18 Stavrinakis?

19 A. I don't think she took it herself. She got it
20 notarized and she gave it to my sister to take to Mr.
21 Cochran. And then later on the statement never made it
22 in my paperwork at the Solicitor's office.

23 So the young lady, Latia Murray, she took it upon
24 herself and went to the Solicitor's office and wrote
25 another statement.

Timothy Wright v State
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July 22, 2019

1 Q. Okay. What did you do with Mr. Stavrinakis in your
2 efforts to get a trial? Did you ask him to get you a
3 trial? Did you want to plead not guilty?

4 A. Yes, sir. Of course at the time we was on a payment
5 plan. So once he was paid all his money by 2015 I said
6 all right Mr. Cochran [sic] you have all your money ---

7 Q. --- not Mr. Cochran; Mr. Stavrinakis.

8 A. I mean Mr. Stavrinakis. I say you have all your
9 money. Let's proceed forward with a speedy trial to get
10 these cases dissolved [sic].

11 Q. Did you get charged with some other crimes in
12 September 2015? What happened then?

13 A. I was charged with distribution of cocaine.

14 Q. Okay. And who represented you on those charges?

15 A. At the time I didn't have anyone when I caught those
16 charges so I contacted Mr. Stavrinakis and asked him
17 could he took over the case. And he was like if he took
18 over the case it would be 11,000 up front.

19 And I told him we don't have 11,000 up front. Me
20 and my sister don't have 11,000 up front. So I detained
21 [sic] Mr. Peter McCoy.

22 Q. Peter McCoy?

23 A. Yes, sir.

24 Q. Okay. And so at that time then you had two
25 attorneys, Mr. Stavrinakis on the trafficking charge and

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Direct Examination by Mr. Craig
July 22, 2019

1 Mr. Cochran -- McCoy?
2 A. Mr. Peter McCoy on ---
3 Q. --- Peter McCoy on the new charge.
4 A. On the new charge, the distribution charge.
5 Q. Okay. And what happened in October of 2015? Did
6 you have a hearing before Judge Jefferson?
7 A. Yeah. I had a hearing in front of Judge Jefferson
8 for a plea of 18 years for all charges.
9 Q. And did you enter a plea?
10 A. No, sir. I turned the plea down.
11 Q. Because you didn't want to plead to a trafficking
12 charge?
13 A. Yeah. I didn't want to plead to the trafficking
14 charge.
15 Q. But you were willing to plead to the distribution
16 charge?
17 A. I was willing to plead to the distribution charge.
18 Q. All right. And did Peter McCoy stay on as your
19 attorney?
20 A. Peter McCoy told me when he came and saw me he was
21 like I could get you a plea on the distribution charge
22 but these trafficking charges is hindering you from me
23 negotiating a reasonable plea for you.
24 Q. Okay. So what did you do in response to that?
25 A. He told me I would have to get the trafficking

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Direct Examination by Mr. Craig
July 22, 2019

1 charges dissolved [sic]. And he was like you need one
2 lawyer on all charges. He said you don't need two
3 different attorneys; you need one attorney on all
4 charges.

5 And I told Peter McCoy at the time when he said that
6 I said well, I have paid Mr. Leon Stavrinakis all of his
7 money so I can't take him off the case when he done been
8 paid all his money. And I want the trafficking charge
9 dissolved [sic] because it's making my record look real
10 bad.

11 Q. And you wanted to go to trial on that charge?

12 A. I wanted to go to trial on the trafficking charge.

13 Q. What did you ask Mr. Stavrinakis to do?

14 A. File for a speedy trial.

15 Q. And did he file for it?

16 A. No, sir.

17 Q. How many times did you ask him to do that?

18 A. Several times. Every time I had my sister call him
19 and ask him about it he told me that the Solicitor won't
20 charge -- excuse me, the Solicitor will not try that case
21 because she don't have enough evidence to go forward with
22 that case. She's going to hold the case as leverage.

23 Q. And Ms. Latia Murray was willing to testify for you
24 if you did go to trial in that case, is that correct?

25 A. Yes, sir.

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Post-Conviction Relief-Timothy Wright-Direct Examination by Mr. Craig
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1 Q. And you wanted to go to trial?

2 A. Yes, sir.

3 Q. So what did you do?

4 A. I filed for a speedy trial.

5 Q. You filed it yourself?

6 A. Yes, sir.

7 Q. And how did you do that?

8 A. Wrote a letter to Julie Armstrong. I filed it
9 through the Clerk of Court through Julie Armstrong. She
10 notarized it and sent me a copy back.

11 Q. And did you tell Mr. Stavrinakis that you had done
12 that yourself?

13 A. He came and saw me right after it was filed through
14 the Clerk of Court; he came and saw me.

15 Q. And what happened at that meeting?

16 A. He was like I see that you filed a speedy trial.
17 And I said yes; I was asking you to file it. He was like
18 well, he was kind of upset, he said well you have -- it
19 was in February when I filed it -- he said well, you got
20 to schedule for a speedy trial hearing in March all
21 right.

22 The speedy trial hearing was scheduled in March. I
23 don't know the exact date in March but it was in the
24 beginning of March the speedy trial hearing was
25 scheduled. It was on a Monday I think. And then the

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Direct Examination by Mr. Craig
July 22, 2019

1 morning of the speedy trial hearing I was waiting for
2 them to call my name to go to the speedy trial hearing.
3 No one never called my name.

4 Q. You were in custody at the time, right?

5 A. I was at the county jail at the time.

6 Q. And so if you were in custody you were in a holding
7 cell?

8 A. No, I wasn't in a holding cell. I was in my unit in
9 the dorm waiting for them to call me to take me to the
10 holding cell to go to the speedy trial hearing.

11 Q. Okay. So ---

12 A. --- so no one -- huh?

13 Q. Then what happened?

14 A. No one came and got me so I went to the officer. I
15 was like I was supposed to have a speedy trial hearing
16 this morning, what's going on. She was like they didn't
17 call for you. So I got on the phone and called my
18 sister. She called Leon off her cell phone because I
19 called my sister on her house phone.

20 She called Leon from her cell phone and put him on
21 speaker and Leon was like the speedy trial hearing was
22 cancelled. So I was like why was it cancelled. He was
23 like it was cancelled because you have to be evaluated.
24 So ---

25 Q. --- had to be what?

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1 A. I have to be evaluated first.

2 Q. Evaluated.

3 A. So I said Mr. Leon what do the evaluation got to do
4 with the speedy trial hearing. The speedy trial hearing
5 for me to go in front of the Judge for the Judge to make
6 a decision if we got enough evidence to even go forward
7 with the trial for them charges to be sitting on.

8 We could go in front of the Judge and then the Judge
9 could have set a date and during that time you could have
10 tell the Judge well, he have to be evaluated. Then the
11 Judge could have set the time frame for the trial
12 inbetween for the evaluation.

13 He could have set a trial for a date and we could
14 get the evaluation done and out the way but I would still
15 have my speedy trial hearing. He was like well; you've
16 got to get evaluated.

17 So I went for the evaluation. The first one been in
18 March. They said I was competent. I went for a second
19 one, they said I was competent. So I contacted Leon and
20 I said Mr. Leon could we please ---

21 Q. --- you said you were evaluated in March and they
22 said you were competent to stand trial?

23 A. Yes, sir.

24 Q. And they sent you for a second evaluation in July?

25 A. Around June or July; somewhere up in that area?

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1 Q. So why did they do it a second time?

2 A. Because Mr. Dale Cobb he had wanted I guess a second
3 opinion or the Solicitor wanted a second -- someone had
4 wanted another opinion.

5 Q. All right. Let's talk about how Dale Cobb got
6 involved. Dale Cobb is a retired attorney, is that
7 correct?

8 A. Yes, sir.

9 Q. And at the time he was practicing law in Charleston,
10 correct?

11 A. Yes, sir.

12 Q. Did you hire Mr. Cobb?

13 A. Yes, sir.

14 Q. Did you hire Mr. Cobb to take over for Peter McCoy?

15 A. Yes, sir.

16 Q. On the new charges?

17 A. Yes, sir.

18 Q. So once again you've got two attorneys. You're got
19 Mr. Stavrinakis on the trafficking charge and you've paid
20 him for that and then you've got Mr. Cobb on the new
21 charges?

22 A. Yes, sir.

23 Q. Okay. And that was around March of 2016; March,
24 April, June somewhere along in there?

25 A. Yeah. I hired Cobb in January of 2016.

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1 Q. Okay.

2 A. Cobb is, Mr. Cobb is the one ---

3 MR. ISENBERG: --- objection, Your Honor. I just
4 don't see any relevance in discussing Mr. Cobb. There
5 have been no allegations against him.

6 MR. CRAIG: We've made no allegations. This is
7 just a history of how it progressed ---

8 THE COURT: --- I'm going to allow him to proceed
9 forward. We can move forward to the issues. But I think
10 he's allowed to set forth a background. Go ahead.

11 MR. ISENBERG: Thank you.

12 A. I hired Mr. McCoy in January before I filed the
13 speedy trial. Mr. McCoy went and informed me that I
14 could have filed a speedy trial myself. The only reason
15 I got rid of Mr. McCoy is because -- huh?

16 Q. [Mr. Craig] Go ahead, go ahead.

17 A. The only reason I got rid of Mr. McCoy because Mr.
18 McCoy he said there is nothing he really could do with
19 Leon's charge sitting there. So I had a history with
20 Dale Cobb before, so I was like I'm going to go get Dale
21 Cobb since Peter McCoy say there is nothing he really
22 could do.

23 I'm going to get Dale Cobb since I had a history
24 with him and see if Dale could help me with these
25 charges. So I hired Dale Cobb. Dale Cobb was like well,

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1 I'll look into the case. I can get you a good,
2 reasonable plea on my charges.

3 So when Mr. McCoy went to talk to -- when Mr. Dale
4 went to talk to the Solicitor Mr. Dale came back and saw
5 me and he was like he practically told me the same thing
6 Peter McCoy told me; there is nothing he can do with
7 Leon's charges sitting there so.

8 Q. So Mr. Cobb said the same thing; you've got to get
9 the trafficking charge resolved; go to trial.

10 A. Mr. Dale said you got to get it resolved. I said I
11 asked Mr. Leon Stavrinakis to file for a speedy trial and
12 he was like you can file it. And that's when I filed it
13 in February.

14 Q. So Mr. Cobb is the one who told you that you could
15 do it yourself?

16 A. Yes, sir.

17 Q. After you filed the motion for speedy trial you said
18 you met with Mr. Stavrinakis and then you had to do
19 evaluations, right?

20 A. Yes, sir.

21 Q. Okay. And what happened after that?

22 A. After the evaluations they said I was competent. My
23 sister was to contact Mr. Leon. I said well I am -- my
24 sister said I am -- I said well, I am; I guess you can go
25 forward with the speedy trial now. So she contacted Leon

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1 and Leon said I was on the plea docket for a plea. So I
2 said what about the speedy trial hearing. The Solicitor
3 ain't -- he stated again the Solicitor ain't going to try
4 that case. She's going to hold it as leverage.

5 I said well as my lawyer you know if she's just
6 holding it as leverage go for a speedy trial because the
7 Solicitor had a boss. And Scarlett Wilson, I know the
8 pleas go through Scarlett Wilson.

9 And Scarlett Wilson is looking at all the charges as
10 a whole, if she looking at all the charges as a whole the
11 plea is going to come down high from Scarlett Wilson; you
12 know what I'm saying. So he was like, he told me again
13 she ain't going to try that case. She won't try that
14 case.

15 Q. Now, going back to Mr. Cobb. What happened next
16 with Mr. Cobb?

17 A. Well, Mr. Cobb he was like he was about to retire.
18 So I asked him to take me up for a bond. I said I'm
19 eligible for a bond. I said could you take me up for a
20 bond.

21 And he was like he would take me up for a bond. So
22 we was scheduled for a bond at Clerk of Court but before
23 we went for the bond I filed, I write the Bar Association
24 on Mr. Stavrinakis.

25 Q. You wrote the Bar Association?

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1 A. Yes, sir. I wrote the Bar Association on Mr.
2 Stavrinakis. And the Bar Association wrote back saying
3 they didn't find anything that Mr. Stavrinakis did wrong.
4 I was explaining to them that I wanted him off my case.

5 So Mr. Stavrinakis -- I guess the Bar Association
6 contacted him and he contacted my sister and told my
7 sister he filed for a motion for dismissal, which also
8 when I was asking him to file for a speedy trial I was
9 asking him to file for a motion for dismissal. So he
10 contacted my sister after the Bar contacted him he was
11 like he filed for a motion for dismissal.

12 Q. Did you ever see that motion?

13 A. No, sir.

14 Q. Okay. So do you don't know if it got filed?

15 A. No, sir. I did file one, though. I filed a motion
16 for dismissal.

17 Q. You filed one yourself?

18 A. Yeah, with Julie Armstrong.

19 Q. All right. Now back to Mr. Cobb, you said that he
20 was retiring and you said that you would release him. I
21 think that's what you just said.

22 A. I didn't want to release Mr. Cobb but he explained
23 to me that he done retired. He about to move to
24 Tennessee, he got a cabin, and he really needed me to
25 release him off the case. So I said well, Mr. Cobb if

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1 you get me a bond I'll release you off the case.

2 And so he took me up for a bond hearing. We went in
3 front of Judge Dennis. Leon talked and told Judge Dennis
4 that he filed a Motion for Dismissal. And this case was
5 about to be dismissed.

6 So Judge Dennis was like well, I don't want to base
7 Mr. Wright's bond on a charge that is about to be
8 dismissed. I don't want to base his bond on that charge.
9 I want to schedule an evidentiary hearing. So Mr. Leon
10 asked Mr. Dennis [sic] should I be present at the
11 evidentiary hearing.

12 So we're in the middle of the courtroom so I'm
13 whispering to Mr. Leon like yeah, I want to be at the
14 evidentiary hearing. But I can't say it loud and
15 interrupt the Court.

16 So I guess Judge Dennis didn't hear him so he asked
17 Dennis again does Mr. Wright have to be at the
18 evidentiary hearing.

19 So I whispered again, yeah I want to be at the
20 evidentiary hearing. At this time the bailiff is taking
21 me out the door. So in November they had a evidentiary
22 hearing.

23 Q. Did Mr. Cobb appear for you at the hearing?

24 A. No, sir.

25 Q. What happened to Mr. Cobb then?

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1 A. After he had took me for the bond he was like he
2 came to the county jail with the paper for me to relieve
3 him and he was like Tim I need you to sign this paper to
4 relieve me off this case.

5 I said no, Mr. Cobb we got the evidentiary hearing;
6 I want you to be there. He was like Tim, I got to go.
7 So I didn't sign the paper that first day he came. So he
8 contacted my sister.

9 I called my sister and my sister was like why didn't
10 you sign Mr. Cobb off the case? You know Mr. Cobb got to
11 go, you know Mr. Cobb got to move, he's go to leave. I
12 was like and I want Mr. Cobb at the evidentiary hearing.

13 And she was like no, I talked to Leon. Leon said
14 the Judge want to give you the bond. The Judge done say
15 he going to give you a bond. Just let Mr. Cobb get off
16 the case and just get the public defender just to do the
17 bond and we'll work on getting you a lawyer later on.

18 So I tell her to tell Mr. Cobb to come on back to
19 the county jail. Mr. Cobb came back to the county jail
20 the next day. I signed him off the case.

21 Q. So you released Mr. Cobb?

22 A. Yes, sir.

23 Q. And Mr. Cobb said you're going to get a public
24 defender on these new charges.

25 A. Yes, just to do a bond.

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1 Q. Mr. Stavrinakis is still representing you on the
2 trafficking charge?

3 A. Yes, sir.

4 Q. Okay. And so did you have an evidentiary hearing
5 before Judge Dennis -- yeah, Judge Dennis?

6 A. They had an evidentiary hearing. I was inside the
7 holding cell. They had the evidentiary hearing in the
8 Judge's chamber. They had the evidentiary hearing in the
9 Judge's chamber. Me or my family wasn't inside the
10 evidentiary hearing so we don't know what was said in the
11 evidentiary hearing.

12 Q. Okay. And who represented you on the new charges at
13 that evidentiary hearing, the public defender?

14 A. Mr. Cochran was at the evidentiary hearing and Mr.
15 Stavrinakis was at the evidentiary hearing.

16 Q. Had you ever met Mr. Cochran at that point?

17 A. No, sir.

18 Q. Okay. When did you first meet Mr. Cochran?

19 A. At the bond hearing that same day after they had the
20 evidentiary hearing in the Judge's chamber.

21 Q. Okay. So when they brought you to the courtroom
22 what did Judge Dennis rule? What did he say?

23 A. He gave me a 50 million dollar bond.

24 Q. Fifty million?

25 A. Fifty million.

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1 Q. Okay. And what did Mr. Cochran say about that?

2 A. Well ---

3 Q. --- is that when you first met him in Court?

4 A. Yeah. Well, when we came in the courtroom Leon
5 spoke, the Solicitor spoke, and then the Judge asked Mr.
6 Cochran if he wanted to spoke. Mr. Cochran stated he
7 didn't have anything ---

8 MR. ISENBERG: --- objection, Your Honor ---

9 A. --- to say because ---

10 MR. ISENBERG: --- objection, Your Honor. Like I
11 said I find it hard to see the relevance here. The
12 transcript from that hearing will speak for itself.
13 We're here to determine the conversations and issues with
14 counsel; not to go over the transcript again and him to
15 retell what happened on the transcript.

16 THE COURT: Okay. All right. We -- I'll ask you
17 to proceed forward.

18 A. When Judge Dennis asked Mr. Cochran to speak Mr.
19 Cochran said I just got on this case. I don't know this
20 case.

21 Q. [Mr. Craig] When did you next see Mr. Cochran?

22 A. I next see Mr. Cochran when he came and bring me the
23 videos. I finally get to see the videos, the
24 distribution videos.

25 Q. Did Judge Dennis set your case on the new charges

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1 for trial at the evidentiary hearing?

2 A. Yes, sir.

3 Q. And he asked Mr. Cochran about when he could be
4 ready for it?

5 A. Mr. Cochran agreed with the Solicitor before he even
6 came and saw me that he would agree with the Solicitor he
7 would be ready for trial in February.

8 Q. February 2017?

9 A. '17.

10 Q. And this was December of 2016?

11 A. Yes, sir. He just got on my case in November after
12 I relieved Mr. Dale Cobb.

13 Q. And the first time you met him was right there in
14 the courtroom?

15 A. Yes, sir.

16 Q. And the next time you saw him was when he came to
17 see you at the county jail to show a video; is that what
18 you said?

19 A. Yes, sir.

20 Q. What video did he show you? Tell me about that.

21 A. The distribution video.

22 Q. That's on the distribution charges?

23 A. Yes, sir.

24 Q. They would only set you a trial on the distribution
25 of the new charges, not the trafficking charges; is that

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1 correct?

2 A. Yes, sir.

3 Q. Okay. So there is a video that is evidence on the
4 distribution charge only. Is that what he showed you?

5 A. Yes, sir.

6 Q. And what did that video show?

7 A. The video showed my cousin pulling up. I'm in the
8 passenger seat. The CI got out the car and was talking
9 to me and my cousin. In the video me nor my cousin
10 talked to the CI about any drugs in the video.

11 Nowhere in the video do you see me handing the CI
12 any drugs in the video. You see the CI handing my cousin
13 a skateboard and my cousin and the CI exchanging a
14 skateboard with one another. You don't see no drugs in
15 the video or nothing or them talking about no drugs in
16 the video.

17 Q. Did you have a co-defendant on the distribution
18 charges?

19 A. Yes, sir.

20 Q. Who was that?

21 A. Xavier Washington.

22 Q. Xavier Washington? Did you -- what did you tell Mr.
23 Cochran about who was in that video?

24 A. I told him Xavier was dealing with the CI.

25 Q. So you said it's not you, it was Xavier?

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1 A. Yes, sir.
2 Q. Your co-defendant?
3 A. Yes, sir.
4 Q. Okay. And what did Xavier, your co-defendant, what
5 is he doing in response to those charges?
6 A. He pled guilty to those charges.
7 Q. He pled guilty to them?
8 A. Yes, sir.
9 Q. Okay. Had he already pled guilty to them before Mr.
10 Cochran got on your case?
11 A. Yes, sir.
12 Q. And what was Xavier sentenced to?
13 A. 90 day shock I believe.
14 Q. Okay. Why such a small sentence?
15 MR. ISENBERG: Objection, Your Honor ---
16 A. --- he didn't have a bad record ---
17 MR. ISENBERG: --- that is improper speculation.
18 THE COURT: I sustain the objection.
19 Q. [Mr. Craig] Was Mr. Washington, Xavier Washington,
20 was he already out at the time you met Mr. Cochran?
21 A. Yeah, he was out at the time.
22 Q. Okay. And you told Mr. Cochran that's not me,
23 that's Xavier; go talk to him?
24 A. Yes, sir.
25 Q. Okay. Did he in fact go talk to Mr. Washington?

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1 A. Yes. Mr. Cochran did go talk to Xavier and he got a
2 statement from him.

3 Q. And it was a statement on your behalf?

4 A. The statement wasn't on my behalf. It was more like
5 Xavier told in the statement that he or me didn't hand
6 the man any drugs.

7 But he wasn't -- the way he wrote the statement he
8 wrote the statement just saying that me or him didn't
9 have any drugs or hand ---

10 MR. ISENBERG: --- objection, Your Honor ---

11 A. --- the man any drugs ---

12 MR. ISENBERG: --- this statement is considered
13 hearsay.

14 THE COURT: Sustained.

15 MR. ISENBERG: Thank you.

16 Q. [Mr. Craig] Don't talk about what the statement said
17 or anything like that. Was Mr. Washington willing to
18 testify for you?

19 A. He was scared at the time because the Solicitor --
20 he was willing -- at the beginning of this whole case
21 Xavier wrote a statement letting them know that he was
22 dealing with the guy ---

23 MR. ISENBERG: --- objection, Your Honor ---

24 Q. [Mr. Craig] --- don't tell what the statement said.

25 A. All right.

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1 THE COURT: Sustained.

2 MR. ISENBERG: Thank you.

3 A. At the -- he was willing but the Solicitor told him
4 she would charge him with perjury.

5 Q. [Mr. Craig] So did you tell Mr. Cochran to
6 subpoena...

7 A. Yes sir, but the State already subpoenaed Xavier.

8 Q. So what happened when you went to trial? When did
9 you next see Mr. Cochran?

10 A. I seen Mr. Cochran, they take me for another plea.
11 They took me -- no, not for another plea, they took me
12 for a pretrial hearing. I think it was a pretrial
13 hearing that me and Mr. Cochran had to go to because the
14 Solicitor was asking to dismiss -- she didn't want to
15 play all the videos.

16 She didn't want to play because she's got three
17 different videos that you see Xavier handing the man the
18 drugs in as plain as day. Then you got the video that
19 she is going to trial with me that you don't see no drugs
20 in the video but she want to make it look like I'm the
21 one ---

22 MR. ISENBERG: --- objection, Your Honor ---

23 A. --- dealing with the man on that video ---

24 MR. ISENBERG: --- that's improper speculation. He
25 doesn't know.

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1 THE COURT: Sustained.

2 A. So she wanted to ask the Judge -- she asked the
3 Judge to not show the rest of the videos. But Judge
4 Dennis was like you got to show all the videos because he
5 could come back and say they leave evidence out of the
6 case. It was a pretrial hearing.

7 Q. [Mr. Craig] A pretrial hearing?

8 A. Yes, sir.

9 Q. And Mr. Cochran was present at that hearing?

10 A. Yes, sir.

11 Q. And Mr. Stavrinakis was not involved at all?

12 A. No, sir.

13 Q. And when did you go to trial on the distribution
14 charges?

15 A. I went to trial on the distribution charges in
16 February of 2006.

17 Q. And did you ask the -- what did you tell the Judge
18 when you were brought over for trial about Mr. Cochran?

19 A. I told the Judge that I didn't feel like Mr. Cochran
20 was on my case long enough to investigate the case and I
21 didn't want him on my case. He wasn't ready for trial.
22 He wasn't on my case not even 90 days.

23 Q. And how many times had you seen him at that point?

24 A. Once. I'd seen him twice -- well, two or three
25 times but no more than three times. I saw him the first

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1 day at Court when I got the 50 million dollar bond and
2 then I saw him at the county jail when he bring the
3 videos and we just watched the videos, and at the
4 pretrial hearing, the pretrial hearing.

5 Q. Right.

6 A. And Sunday before trial.

7 Q. Sunday before the trial?

8 A. Yeah, because trial was on a Monday. He came and
9 saw me and let me know that he went out to Xavier's house
10 on a Saturday I think. He went out to Xavier's house on
11 a Saturday, it was on a weekend that he went out and
12 talked with Xavier. It was on a weekend.

13 Q. Okay. So what happened when you told the Judge you
14 wanted a different attorney?

15 A. He told me if I wanted a different attorney I would
16 have to proceed with trial and represent myself. So I
17 told him I wanted to represent myself. He said if you
18 want to represent yourself you would have to represent
19 yourself here today in trial.

20 I told him I wasn't prepared to represent myself and
21 he was like well, either you're going to represent
22 yourself here today or I advise you to keep your attorney
23 because trial is going forward today.

24 And I told him my attorney is not ready to go to
25 trial today and even Mr. Cochran asked him for a

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1 continuance because he wasn't ready and he denied Mr.
2 Cochran's continuance.

3 Q. And did you go to trial or did you plead guilty?

4 A. I pled guilty.

5 Q. And why is that?

6 A. Because the Judge leave me no other choice. You
7 could go to trial today or plead guilty.

8 Q. And you were afraid to go to trial without...

9 A. With Mr. Cochran because he wasn't prepared for
10 trial.

11 Q. And what sentence did you get?

12 A. I received -- when Judge Dennis was like if you
13 going to plead guilty today I recommend 30 years. So the
14 Solicitor at the time she was like I want to talk to
15 Scarlett to see what Scarlett says about the case.

16 So he was like tell Scarlett I recommend 30 years.
17 So the Solicitor when I hold on she went and talked to
18 Scarlett and she came back and Scarlett said plead to 25
19 years. So I pled to 25 years.

20 Q. Did you plead to the trafficking charge as well?

21 A. I plead to all charges.

22 Q. Was Mr. Stavrinakis there with you when you pled to
23 the trafficking charge?

24 A. No, sir.

25 Q. Did Mr. Cochran -- did you allow him to be your

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1 attorney on the trafficking charge?

2 A. No, sir.

3 Q. So you had no attorney on the trafficking charge
4 when you pled guilty?

5 A. No, sir.

6 Q. No attorney was with you on those charges?

7 A. No, sir.

8 Q. Was that -- did you tell the Court that?

9 A. The Court didn't ask me, no sir.

10 Q. And you got 25 years?

11 A. Yes, sir.

12 Q. And that was on all the charges combined?

13 A. Yes, sir.

14 Q. Did you file an appeal after that?

15 A. Mr. Cochran that same day I asked Mr. Cochran I told
16 him Mr. Cochran was like if you plead -- I was like what
17 can I do because I really don't want to plead. What can
18 I do to get back in Court? He was like I can file a
19 motion for a direct appeal.

20 And he was like he had 10 days to do it and I said
21 please file it because I really don't want to plead
22 today. So he was like when you go in front of the Judge
23 don't tell the Judge that.

24 When you go in there to plea you're going to have to
25 just go ahead and plead. Go ahead and plead and I'll

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1 file for a direct appeal. And he filed for a direct
2 appeal.

3 Q. And what happened to the appeal?

4 A. The direct appeal was turned down. It was denied.

5 Q. All right. Answer any questions the Assistant
6 Attorney General has for you.

7 THE COURT: Yes sir, you're recognized.

8 MR. ISENBERG: May it please the Court?

9 THE COURT: Yes, sir.

10 MR. ISENBERG: Beg the Court's indulgence just a
11 second.

12 [Whereupon, Mr. Isenberg reviews documents]

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1 CROSS-EXAMINATION

2 BY MR. ISENBERG:

3 Q. Good morning, Mr. Wright.

4 A. Good morning, sir.

5 Q. How are you doing today?

6 A. I'm doing okay.

7 Q. So you are alleging ineffective assistance of

8 counsel against two trial attorneys of yours, correct?

9 A. Yes, sir.

10 Q. The first one is Mr. Cochran, correct?

11 A. Yes, sir.

12 Q. And you're alleging that he was ineffective for not

13 getting a continuance, correct?

14 A. Not just getting a continuance but even agreeing to

15 go to trial without even came to see me. He agreed to do

16 ---

17 Q. --- you said that he -- wait, let me stop you right

18 there. You said that he saw you on the date of your bond

19 hearing, correct?

20 A. That been the first day he saw me ---

21 Q. --- so the day that you pled you had previously met

22 with him, correct?

23 A. Yes, sir.

24 Q. Okay. But you're alleging based on your direct

25 examination that your gripe with him is that he did not

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1 get a continuance so that you could figure your situation
2 out, correct?

3 A. Could you ask me that question again?

4 Q. Is your issue with Mr. Cochran that he did not get
5 that continuance from the Judge on the day that you pled
6 guilty?

7 A. Yes, sir. That's not the only issue but yes sir,
8 that's one of the issues.

9 Q. Okay. So within that issue he requested a
10 continuance from the Judge correct?

11 A. He did ask for the continuance ---

12 Q. --- and the Judge, just answer yes or no, and the
13 Judge denied that continuance, correct?

14 A. Yes, sir.

15 Q. Okay. You also said that he was ineffective based
16 on your direct examination for not efficiently
17 investigating a witness that you presented him, your co-
18 defendant; correct?

19 A. Yes, sir.

20 Q. Okay. But you did say that he interviewed that co-
21 defendant, correct?

22 A. That ain't the only co-defendant, sir.

23 Q. Okay. But he did interview the co-defendant that
24 you mentioned in direct examination, correct?

25 A. One of the co-defendants.

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1 Q. Okay. But the co-defendant you mentioned on direct
2 was Mr. Washington, correct?
3 A. I mentioned two co-defendants on direct.
4 Q. Okay. But you said you wanted him to interview Mr.
5 Washington, correct?
6 A. Yes, sir.
7 Q. And he did, right?
8 A. He interviewed Mr. Washington ---
9 Q. --- and he got a statement from him, right?
10 A. Yes, sir.
11 Q. Okay. Now your other issue from Mr. Cochran is that
12 he did not -- another issue, sorry about that; strike
13 that. Your other issue with Mr. Cochran is that he
14 allowed the Solicitor to hold cases as leverage, correct?
15 A. No, not Mr. Cochran, Mr. Leon.
16 Q. Okay. So we'll get to Mr. Leon. So we've got two
17 issues with Mr. Cochran; the investigation issue and the
18 failure to get a continuance, correct?
19 A. Yes, sir.
20 Q. Okay. You don't have any more issues with him?
21 A. No, sir. He just ---
22 Q. --- just those two, okay.
23 A. He did not fully investigate my case before he
24 agreed to go to trial. He didn't investigate my case at
25 all when he agreed to go to trial in February.

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Cross-Examination by Mr. Isenberg
July 22, 2019

1 Q. Okay. So you just ---
2 A. --- he didn't even know my case when he agreed to go
3 to trial in February.
4 Q. Okay. So you just said he didn't investigate your
5 case, right?
6 A. Yes, sir.
7 Q. Okay. But you did say that he interviewed one of
8 your co-defendants, correct?
9 A. Yes, sir.
10 Q. Okay. So now with Mr. Leon your issue with him is
11 that he allowed the Solicitor to hold cases as leverage,
12 correct?
13 A. Yes, sir.
14 Q. Okay. And the charges that Mr. Leon represented you
15 on ultimately got dismissed or no?
16 A. No, I'm doing time for those charges.
17 Q. Okay. And that's the trafficking charge?
18 A. Yes, sir.
19 Q. Okay. And so in that trafficking charge you pled 25
20 years, right; negotiated?
21 A. It wasn't negotiated. I was given an ultimatum
22 either take 25 or go to trial today. So it wasn't
23 negotiated.
24 Q. Okay. So you instead of going to trial you took the
25 25 years, correct?

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Cross-Examination by Mr. Isenberg
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1 A. Yes, sir.

2 Q. And a part of that negotiated sentence you had
3 several charges dropped, right?

4 A. I had no charges dropped for taking that plea.

5 Q. Okay. You didn't have a possession with intent to
6 distribute cocaine dropped?

7 A. No, those charges was with Mr. Smiley. All those
8 charges were dropped before I even went to trial. Before
9 I even pled those charges were dismissed.

10 Q. Okay. So you didn't have possession with intent to
11 distribute weed dropped?

12 A. It was nothing never negotiated to be dismissed or
13 dropped. Those charges was dropped with Mr. Smiley.

14 Q. Okay. And what about the possession with intent to
15 distribute cocaine?

16 A. All those charges -- all those Smiley charges was
17 dropped.

18 Q. Okay. So those charges were dropped?

19 A. And it didn't have nothing to do with me pleading
20 for it being dropped neither.

21 Q. You're saying it had nothing to do with your plea?

22 A. No.

23 Q. Okay. All right. Now during your plea hearing you
24 indicated that you previously refused an offer of 15
25 years, correct?

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Cross-Examination by Mr. Isenberg
July 22, 2019

1 A. I didn't refuse the plea. I refused all the pleas
2 because they wanted me to plead to that trafficking
3 charge.

4 Q. Okay. And you were aware at your -- during your
5 plea hearing that had you gone to trial you would have
6 been subject to life without parole, correct?

7 A. Yes, I was told yes sir. I know that, yes sir. I
8 did know that.

9 Q. So you were aware?

10 A. I was aware.

11 Q. Okay. And that was part of the reason why you pled
12 right?

13 A. No, I pled because I didn't want to go to trial with
14 an attorney who wasn't prepared.

15 Q. Okay.

16 MR. ISENBERG: Beg the court's indulgence for one
17 moment, Your Honor.

18 [Whereupon, Mr. Isenberg and Mr. Limbaugh confer]

19 MR. ISENBERG: Your Honor, I have no further
20 questions.

21 Q. [Mr. Isenberg] Mr. Wright, please answer any
22 redirect or questions from Your Honor. Thank you.

23 A. Yes, sir.

24 THE COURT: Redirect?

25 MR. CRAIG: Just a couple, Your Honor.

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Redirect Examination by Mr. Craig
July 22, 2019

REDIRECT EXAMINATION

BY MR. CRAIG:

Q. Mr. Wright, the other charges that were dismissed that the Assistant Attorney General talked about they were dismissed prior to the February trial date, were they not?

A. Yes, sir. Those were dismissed because I wrote the Bar about those charges too. All right, from 2014 to 2000 -- from the time that I was in county jail I was being just charged with stuff that they was just -- the police officer was just charging me with things; just stacking charges up against me.

So I was writing the Supreme Court, the Bar Association complaining about it and they forced their hand. And at the hearing when I went for the bond with Judge Dennis that's the same day that Judge Dennis rescheduled the bond hearing for me to have the evidentiary hearing.

Ms. Mulkey, my Solicitor at the time, she stated that Leon -- Jim Smiley charges was dismissed because of the term she used because of other issues -- other -- she didn't say that the Bar, I knew she was talking about the Bar and forced them to drop those charges.

Q. But the bottom line is all those charges were dropped and dismissed before your February trial date?

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Redirect Examination by Mr. Craig
July 22, 2019

1 A. Yes, sir. There was never no plea agreement for no
2 charges to be dismissed or nothing like that.

3 THE COURT: I'm going to ask counsel to look at
4 page 30 of the transcript and the Solicitor says there
5 are several charges that will be nol prossed; a
6 possession with intent to distribute cocaine within close
7 proximity, and a possession with intent to distribute
8 marijuana as well as a possession of cocaine that will be
9 nol prossed pursuant to his plea.

10 MR. CRAIG: As I understand it Judge it's in the
11 transcript, I've seen that. But I understand they were
12 actually dismissed prior to that. Maybe there is just an
13 agreement to be dismissed; I'm not sure.

14 THE COURT: What does the Attorney General have to
15 say about that?

16 MR. ISENBERG: Your Honor, our position based on
17 the transcript is that that was pursuant to the plea
18 agreement that they would nol pros the three charges in
19 exchange for entering the negotiated sentence.

20 MR. CRAIG: There is nothing in the transcript that
21 says that either, Your Honor.

22 THE COURT: Well, they asked Mr. Cochran, is that
23 your understanding Mr. Cochran? And Mr. Cochran says
24 yes, Your Honor.

25 MR. CRAIG: Mr. Cochran didn't represent Mr. Wright

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Redirect Examination by Mr. Craig
July 22, 2019

1 on those charges. Jim Smiley represented Mr. Wright on
2 those charges. And there was a prior hearing where Mr.
3 Smiley appeared. We don't have the transcript from that
4 hearing.

5 THE COURT: Okay.

6 MR. CRAIG: Thank you, Your Honor.

7 Q. [Mr. Craig] The second issue is the Assistant
8 Attorney General asked you about Mr. Cochran interviewing
9 your witness Xavier Washington?

10 A. Yes, sir.

11 Q. When did he interview him?

12 A. Saturday.

13 Q. Saturday?

14 A. Saturday or Friday. It was the weekend before
15 trial.

16 Q. And your trial started on Monday and he went to talk
17 to him on Saturday?

18 A. Yes, sir.

19 Q. Then he came and talked to you that Sunday?

20 A. Yes, sir.

21 Q. Okay. Which is only the second time you had met
22 with Mr. Cochran at the jail?

23 A. Yes, sir.

24 Q. Okay. Thank you.

25 THE COURT: All right. You may step down. Thank

Timothy Wright v State
Post-Conviction Relief-Timothy Wright-Redirect Examination by Mr. Craig
July 22, 2019

1 you, sir.

2 [Whereupon, the witness is excused and exits the
3 witness stand]

4 THE COURT: You may call your next witness.

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Timothy Wright v State
Post-Conviction Relief-Lavenia Lucas-Direct Examination by Mr. Craig
July 22, 2019

1 MR. CRAIG: We call Ms. Lavenia Lucas.

2 THE COURT: All right. Ms. Lucas please come
3 forward.

4 [Whereupon, Ms. Lucas comes forward]

5 THE COURT: I'm going to ask you if you could to
6 place your left hand on the Bible. Approach the Bible
7 over here [indicates] place your left hand on the Bible
8 and raise your right hand as the Clerk administers the
9 oath.

10 [Whereupon, the witness is duly sworn by the Clerk
11 of Court]

12 THE COURT: Have a seat there in the witness chair,
13 pull up real close to that microphone. I'm going to ask
14 you if you could just speak loudly, clearly, and slowly
15 in order that we can hear everything that you have to
16 say. Let's start with your full name please, ma'am.

17 THE WITNESS: Lavenia Wright Lucas.

18 THE COURT: Thank you, Ms. Lucas.

19 THE COURT REPORTER: Would you spell your first
20 name, please.

21 THE WITNESS: L-A-V-E-N-I-A.

22 - - - - -

23 LAVENIA LUCAS,

24 Having been first duly sworn,

25 Was examined and testified as follows:

Timothy Wright v State
Post-Conviction Relief-Lavenia Lucas-Direct Examination by Mr. Craig
July 22, 2019

1 DIRECT EXAMINATION

2 BY MR. CRAIG:

3 Q. Ms. Lucas, how are you related to Mr. Wright?

4 A. I'm his sister.

5 Q. Okay. And are you familiar with Mr. Wright's

6 charges?

7 A. Yes, sir.

8 Q. Okay. Did you have some interaction with Mr. Wright

9 and Mr. Stavrinakis as far as Mr. Stavrinakis'

10 representation of Mr. Wright?

11 A. Yes, sir.

12 Q. And tell me about that.

13 A. Well, I used to call, do all the calling basically

14 to ask Leon what was going on with the case or whatever

15 the case may be. Basically, I don't know what...

16 Q. Were you like the intermediary when Tim would ask

17 you to ask Mr. Stavrinakis ---

18 A. --- right ---

19 Q. --- and you would contact him because Tim was in

20 jail.

21 A. Right, right, right.

22 Q. So you were sort of the go-between?

23 A. Right, right; pretty much.

24 Q. Okay. Do you know Latia Murray?

25 A. Yes.

Timothy Wright v State
Post-Conviction Relief-Lavenia Lucas-Direct Examination by Mr. Craig
July 22, 2019

1 Q. Who is she?

2 A. She's right here in the courtroom.

3 Q. I understand. Tell the Court who she is.

4 A. A friend of the family.

5 Q. Okay. And was she at one time charged as a co-
6 defendant with him?

7 A. Yes, sir.

8 Q. Okay. And did you act as a go-between to tell Mr.
9 Stavrinakis about Ms. Murray's willingness to testify for
10 Mr. Wright?

11 A. Yes, sir.

12 Q. Tell me about that.

13 A. Well, I told him that I had a statement that she had
14 wrote or whatever the case may be for Timothy. And I
15 also told him he could call her and talk to her or
16 whatever the case may be.

17 I know he told us at one point that he was going to
18 put it for a speedy trial, which when I talked to Tim I
19 said just wait, he's going to put it in. He told me he
20 would put it in.

21 He was like no; he ain't going to put it in because
22 he hasn't put it in. So he told me he was going to put
23 it in and I said well go ahead and put it in. Then after
24 he did put it in it was a big mix-up about that because I
25 don't think Leon agreed with him putting that in. So it

Timothy Wright v State
Post-Conviction Relief-Lavenia Lucas-Direct Examination by Mr. Craig
July 22, 2019

1 was a misunderstanding between him and Timothy. And
2 Timothy said well I'm going to just fire him because
3 obviously he want to see me sitting here instead of
4 trying to bring me to Court to you know allow him to know
5 this charge ain't got nothing to do with me.

6 Q. Did you have a conversation with Mr. Stavrinakis
7 about the Motion for Speedy Trial?

8 A. Yes, sir.

9 Q. Okay. Did you have another conversation with Mr.
10 Stavrinakis after Timothy wrote the Bar Association?

11 A. Yes, sir.

12 Q. Okay. What about that? What did Mr. Stavrinakis
13 say?

14 A. Well, he had told me that he went to see Tim and Tim
15 told him that he was going to fire him. And so me and
16 him discussed some stuff and I said well, just wait.

17 I'm going to go down there and I'm going to see him
18 and I'll talk to him because you know if you're willing
19 to fight for him we're going to need you on this case;
20 you've already been paid, you know what I'm saying.

21 So at that time I think he went to Court or
22 something like that and Tim was telling the Judge that he
23 no longer wanted Stavrinakis to represent him. So he
24 would have had to sign him off of the case or whatever.
25 But we came to some kind of agreement, which he stayed on

Timothy Wright v State
Post-Conviction Relief-Lavenia Lucas-Direct Examination by Mr. Craig
July 22, 2019

1 the case because he was supposed to proceed with putting
2 that speedy trial in or whatever.

3 Q. But he never did?

4 A. No.

5 Q. And you continued to be the go-between so to speak
6 between Timothy and Mr. Stavrinakis all throughout the
7 entire time?

8 A. Yes.

9 Q. And you conveyed to Mr. Stavrinakis that Tim wanted
10 to go to trial on that charge?

11 A. Right.

12 Q. And that was very clearly made to him?

13 A. Right.

14 Q. Answer any questions the Assistant Attorney General
15 has for you.

16 THE COURT: Yes, sir?

17 MR. ISENBERG: May it please the Court?

18 THE COURT: Yes, sir.

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Timothy Wright v State
Post-Conviction Relief-Lavenia Lucas-Cross-Examination by Mr. Isenberg
July 22, 2019

1	CROSS-EXAMINATION
2	BY MR. ISENBERG:
3	Q. Good morning.
4	A. Good morning.
5	Q. You stated on direct examination that you had a
6	statement from Ms. Murray?
7	A. Yes.
8	Q. Okay. And you never gave that statement to Leon?
9	A. Yes.
10	Q. Okay. You gave him the statement?
11	A. Yes.
12	Q. Okay. But he decided not to put it in because he
13	did not want to put it in ---
14	A. --- oh, I don't know. He probably did.
15	Q. Okay. But you stated on direct that he did not want
16	to put in the statement.
17	A. I didn't say put in the statement. I said put in
18	the speedy trial. That's what I stated.
19	Q. So he did not want to use a Speedy Trial Motion?
20	A. He never did the speedy trial.
21	Q. Okay.
22	A. He never put in for one.
23	Q. Okay. But you're saying that he told you that he
24	did not want to do it ---
25	A. --- no. No, no, no, no, no, no, no. I never stated

Timothy Wright v State
Post-Conviction Relief-Lavenia Lucas-Cross-Examination by Mr. Isenberg
July 22, 2019

1 that.

2 Q. Okay.

3 A. He told me that he would have put in for a speedy
4 trial. I said the dispute was between him and Tim. I
5 don't really know a lot about the Court system so
6 basically I was being walked through it; you know what
7 I'm saying?

8 Q. Okay, right.

9 A. Tim has no money so it's basically me and my mother
10 who has to come up with paying these lawyers and whatever
11 the case may be.

12 Q. Right.

13 A. Okay.

14 Q. Right. So you're saying that to the best of your
15 knowledge there was a dispute between them about the
16 Speedy Trial Motion.

17 A. Yes, it was.

18 Q. So they talked about it?

19 A. Yes.

20 Q. Okay. And because of Mr. Leon's decision Timothy
21 wanted to fire him, correct?

22 A. Pretty much, yeah.

23 Q. Okay. So after their conversation about it that was
24 when he wanted to relieve Leon from the case, correct?

25 A. Yes.

Timothy Wright v State
Post-Conviction Relief-Lavenia Lucas-Cross-Examination by Mr. Isenberg
July 22, 2019

1 Q. Okay.

2 MR. ISENBERG: No further questions for this
3 witness.

4 THE COURT: All right. Any redirect?

5 MR. CRAIG: No, Your Honor.

6 THE COURT: All right. You may step down. Thank
7 you, ma'am.

8 [Whereupon, the witness is excused and exits the
9 witness stand]

10 THE COURT: You may call your next witness.

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Timothy Wright v State
Post-Conviction Relief-Latia Murray-Direct Examination by Mr. Craig
July 22, 2019

1 MR. CRAIG: Latia Murray.

2 THE COURT: Please come forward.

3 [Whereupon, Ms. Murray comes forward]

4 THE COURT: I'd ask you if you could to place your
5 left hand on the Bible and raise your right hand as the
6 Clerk administers the oath.

7 [Whereupon, the witness is duly sworn by the Clerk
8 of Court]

9 THE COURT: Have a seat in the witness chair there.
10 Pull up real close to that microphone and speak loudly,
11 clearly, and slowly in order that we can hear everything
12 that you have to say. Let's start with your full name,
13 please ma'am.

14 THE WITNESS: Latia Murray.

15 THE COURT: Spell that first one.

16 THE WITNESS: L-A-T-I-A.

17 THE COURT: Okay.

18 MR. CRAIG: Thank you, Your Honor.

19 - - - - -

20 LATIA MURRAY,

21 Having been first duly sworn,

22 Was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CRAIG:

25 Q. Ms. Murray, were you charged as a co-defendant with

Timothy Wright v State
Post-Conviction Relief-Latia Murray-Direct Examination by Mr. Craig
July 22, 2019

1 Timothy Wright ---
2 A. --- yes ---
3 Q. --- on a trafficking charge?
4 A. Yes.
5 Q. Okay. And what did you do in response to that?
6 A. I pled guilty to those charges and I received
7 probation.
8 Q. Was that a first offense for you?
9 A. Yes.
10 Q. Okay. And with regard to Timothy Wright did you
11 know that Mr. Stavrinakis was representing him on those
12 charges?
13 A. Yes.
14 Q. Okay. Did you write a statement saying that you
15 would be willing to testify for Timothy?
16 A. Yes.
17 Q. And say that the drugs were not his?
18 A. Yes and that I pled guilty for.
19 Q. And did you take a copy of that statement down to
20 Mr. Stavrinakis' office?
21 A. Yes.
22 Q. How did you -- did you see Mr. Stavrinakis
23 personally or what did you do?
24 A. He wasn't present. I talked to him on the phone and
25 told me I could leave it with his secretary but she

Timothy Wright v State
Post-Conviction Relief-Latia Murray-Direct Examination by Mr. Craig
July 22, 2019

1 wasn't there. So I called him back and let him know and
2 he redirected me to the back of his office to his
3 personal mailbox and he told me to put it in there and I
4 did.

5 Q. Okay. When was that approximate timeframe?

6 A. I'm not sure the exact date but it was before trial.

7 Q. Okay. And did you tell Mr. Stavrinakis that you
8 were willing to testify for Timothy?

9 A. Yes.

10 Q. Did you later write a second statement?

11 A. That was the second statement that I put in his
12 mailbox. The first one I gave to Lavenia Lucas.

13 Q. Okay. The first one you gave to Ms. Lucas who just
14 testified.

15 A. Yes.

16 Q. And the second statement you put in his mailbox. Is
17 that the one you had filed with the Clerk?

18 A. Yes that I had notarized.

19 MR. CRAIG: May I approach, Your Honor?

20 THE COURT: Yes.

21 Q. [Mr. Craig] Is this a copy of the second statement?
22 [Whereupon, the witness is shown document]

23 A. Yes.

24 Q. Okay.

25 MR. CRAIG: Your Honor, I move that be introduced

Timothy Wright v State
Post-Conviction Relief-Latia Murray-Direct Examination by Mr. Craig
July 22, 2019

1 into evidence.

2 THE COURT: Any objection?

3 MR. ISENBERG: Can I have a moment to read it, Your
4 Honor?

5 THE COURT: Yes.

6 [Whereupon, Mr. Isenberg reviews document]

7 MR. ISENBERG: Your Honor, we have no objection to
8 this. We just ask that it be preserved so that we can
9 use it on cross-examine the witness. Thank you.

10 THE COURT: It's in evidence as Applicant's exhibit
11 1.

12 [Whereupon, Applicant's exhibit number 1 is marked
13 by the court reporter]

14 [Whereupon, Applicant's exhibit number 1 is entered
15 into evidence by the Court]

16 MR. CRAIG: Your Honor, I have an additional copy
17 if you'd like to see it.

18 Q. [Mr. Craig] Ms. Murray, what's the date you wrote
19 that statement?

20 A. I believe it was September.

21 [Whereupon, the witness reviews document]

22 A. September 21st, 2016.

23 Q. 2016?

24 A. Yes.

25 Q. Okay. So this was -- this is the second statement

Timothy Wright v State
Post-Conviction Relief-Latia Murray-Direct Examination by Mr. Craig
July 22, 2019

1 that you personally took down to Mr. Stavrinakis' office?

2 A. Yes.

3 Q. Okay. And during the entire time the trafficking
4 charges were pending were you willing to testify for Mr.
5 Timothy Wright?

6 A. Yes.

7 Q. Okay. And Mr. Stavrinakis knew that?

8 A. To my knowledge, yes.

9 Q. Thank you. Answer any questions the Assistant
10 Attorney General may have.

11 THE COURT: Cross-Examination?

12 MR. ISENBERG: Yes, Your Honor. May it please the
13 Court?

14 THE COURT: Yes.

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Timothy Wright v State
Post-Conviction Relief-Latia Murray-Cross-Examination by Mr. Isenberg
July 22, 2019

1 CROSS-EXAMINATION

2 BY MR. ISENBERG:

3 Q. Good morning, Ms. Murray.

4 A. Good morning.

5 Q. Now you testified on direct that you filed this

6 statement with the Clerk's office, correct?

7 A. Yes.

8 Q. And you gave it to Leon?

9 A. I put it -- not him directly; I put it in his

10 mailbox.

11 Q. Okay. So you never gave it to him directly?

12 A. He wasn't at the office. He told me to put it in

13 his mailbox.

14 Q. Okay. So you had that conversation with Leon,

15 correct?

16 A. Yes. I did talk to him to give him this statement.

17 Q. Okay. And those were the same conversations that

18 you told him you were willing to testify?

19 A. Yes. I told him at a Court appearance one day.

20 Q. Okay. And when you filed this statement was that

21 your full and entire statement on the matter?

22 A. Yes.

23 Q. Okay. So your full statement on this matter is that

24 you had never seen Timothy with any type of substance at

25 the residence, correct?

Timothy Wright v State
Post-Conviction Relief-Latia Murray-Cross-Examination by Mr. Isenberg
July 22, 2019

1 A. Yes.

2 Q. Okay. But there had been moments in your life that
3 you had not been in the residence, correct?

4 A. Yes.

5 Q. Okay. So there is a chance that Timothy was at the
6 residence and you weren't, correct?

7 A. Yes.

8 Q. Okay.

9 MR. ISENBERG: No further questions for this
10 witness.

11 THE COURT: Any redirect?

12 MR. CRAIG: No, Your Honor.

13 THE COURT: You may step down. Thank you, ma'am.

14 [Whereupon, the witness is excused and exits the
15 witness stand]

16 THE COURT: You may call your next witness.

17 MR. CRAIG: That's Applicant's case, Your Honor.

18 THE COURT: All right. The State is recognized.

19 MR. ISENBERG: Yes, Your Honor.
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Timothy Wright v State
Post-Conviction Relief-Leonidas Stavrinakis-Direct Examination by Mr. Isenberg
July 22, 2019

1 MR. ISENBERG: The State will call Leonidas
2 Stavrinakis to the stand.

3 [Whereupon, Mr. Stavrinakis comes forward]

4 THE COURT: Yes, sir. If you could please come
5 forward and place your left hand on the Bible and raise
6 your right hand as the Clerk administers the oath.

7 [Whereupon, the witness is duly sworn by the Clerk
8 of Court]

9 THE COURT: I'm going to ask you to pull up real
10 close to that microphone and speak loudly, clearly, and
11 slowly in order that we can hear everything that you have
12 to say. Let's start with your full name; you might need
13 to spell that second one.

14 THE WITNESS: Leonidas Stavrinakis and I go by
15 Leon, Your Honor. And last name is spelled S-T-A-V-R-I-
16 N-A-K-I-S.

17 THE COURT: Is that Greek in origin?

18 THE WITNESS: Yes sir, Your Honor.

19 THE COURT: Very good.

20 THE COURT REPORTER: Would you spell your first
21 name?

22 THE WITNESS: L-E-O-N-I-D-A-S.

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24 LEONIDAS STAVRINAKIS,

25 Having been first duly sworn,

Timothy Wright v State
Post-Conviction Relief-Leonidas Stavrinakis-Direct Examination by Mr. Isenberg
July 22, 2019

1 Was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. ISENBERG:

4 Q. Good morning, Mr. Stavrinakis.

5 A. Good morning.

6 Q. Am I pronouncing that correctly?

7 A. Yes, very good. Leon is fine though.

8 Q. I just want to start with asking you what area of
9 law you currently practice in.

10 A. Predominately criminal defense but I also do some
11 plaintiff civil litigation and a little bit of business
12 law for a couple of clients.

13 Q. Okay. And so about percentage wise how much of your
14 practice is in the area of criminal defense?

15 A. Eighty percent or more.

16 Q. Okay. And how long have you been practicing in that
17 area of law in terms of criminal defense?

18 A. Since I started after graduating in 1992.

19 Q. Okay.

20 A. So I've been predominately a criminal defense
21 practitioner the entire time. I've been a private
22 practice attorney and also worked three years as an
23 Assistant Solicitor. So it's been the overwhelming part
24 of my criminal practice.

25 Q. So it's fair to say you've been a criminal defense

Timothy Wright v State
Post-Conviction Relief-Leonidas Stavrakis-Direct Examination by Mr. Isenberg
July 22, 2019

1 attorney for 25 plus years?

2 A. Yes.

3 Q. Okay. And you were assigned Mr. Wright's case.

4 A. They retained me.

5 Q. I'm sorry; you were assigned Mr. Wright's case at
6 the beginning from the previous testimony. Do you
7 remember about the time period of that? I'm sorry; I
8 didn't phrase that well.

9 A. So I wouldn't say at the beginning but I did -- I
10 was retained on the trafficking charge and I think there
11 was one or two associated charges with that incident.

12 When I was retained he already had an attempted
13 murder charge pending that Mr. Smiley was handling. And
14 then of course he added more charges thereafter.

15 Q. Okay. So at that first meeting after you were
16 assigned the case with him what, if any, type of
17 discussions did you have about the trafficking charges?

18 A. Well, I think the first thing we did was get him a
19 bond hearing and get him a bond, which we were successful
20 at and he bonded out. You know over time we obviously
21 had a lot of discussions about the trafficking charge.

22 It was impossible though from start to finish in
23 this case to separate one case from another because they
24 were all very serious. Because of his record they all
25 carried a lot of time and so he had multiple lawyers all

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1 the way through. He had multiple lawyers the entire
2 time. And again, all the cases were very serious and all
3 of them carried a lot of jail time. And so it was hard
4 to separate the discussions from each other.

5 He did not want to go back to jail was the bottom
6 line. He wanted probation and I told him that that was
7 not likely to happen. And so to buckle in for you know a
8 long ride if that was you know the kind of outcome he was
9 looking we were going to have to be willing to play this
10 out for a while.

11 Q. So I just want to break that up a little bit. You
12 just testified that in your opinion these charges were
13 intertwined throughout this case.

14 A. Well, obviously the evidence for each case is
15 different. But you go to trial or work out a plea on one
16 case that carries 25 years and then you're left with more
17 cases that carry mandatory minimums and/or sentences of
18 you know in the high double digits it doesn't make much
19 sense for your client.

20 And we had those discussions. I talked to the other
21 lawyers a lot, even though they changed a lot. And we
22 were trying to come up with something that would either
23 resolve everything for him or he needed to be prepared
24 one at a time to try these cases, which with the number
25 of cases he was facing was a very, very daunting

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1 prospect.

2 Q. So I think to summarize I think you just testified
3 that you had had discussions with him that a plea
4 negotiation or a plea deal in this process would cover
5 all of his charges and not just one and then go to trial
6 for the other?

7 A. Yeah. That happened multiple times over the life of
8 the case.

9 Q. Do you know about how many times you talked to him
10 about the plea negotiations covering all of the charges?

11 A. I would imagine virtually every time we met or
12 talked, including talking to his family. I don't know
13 how many times it was though, but it was a lot.

14 Q. And you testified a moment ago that his intention
15 was he didn't want to go to jail on any of the charges.

16 A. Yeah, I mean I think that changed over time. He
17 never that I can recall gave me a firm idea of what he
18 would accept.

19 But obviously towards the end there when the charges
20 Mr. Cochran handled came up I think you know it changed
21 for him a little bit. He understood that getting
22 probation wasn't going to happen.

23 Q. Okay. And so I want to sort of go chronological.
24 About how early on did you receive the statement from Ms.
25 Murray? And ---

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1 A. --- so we talked about you know her probably prior
2 to that. I think the earliest statement though is in
3 August of 2016. It was just someone dropped off a hand
4 written note with a signature on it. I had never met the
5 person; I didn't know who it was.

6 My recollection was that I called them back and said
7 I need something notarized. Because this was a criminal
8 prosecution involving this person I wasn't, as a lawyer,
9 wanting to be the one communicating with the person who
10 was being prosecuted and to get them to write something
11 that might be incriminating.

12 But if they brought it to me I would obviously use
13 it to represent my client. And then in September a
14 second one came. And that one was notarized. I
15 discussed it with Tim and indicated to him that although
16 it might be helpful it did not in my opinion cover or
17 automatically resolve the case; that two people can be
18 guilty of possessing drugs.

19 And I think as somewhat similar to what you pointed
20 out on your cross-examination there were some factual
21 issues that it did not address. Some ---

22 Q. --- so you indicated to Tim that ---

23 A. --- yeah ---

24 Q. --- I'll just sort of summarize what you said there.
25 You indicated to Tim that two people could be guilty of

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1 this charge and that there were some factual
2 discrepancies with that statement.

3 A. The statement certainly. Yeah, I certainly let him
4 know that there is nothing in the law that says only one
5 person could be in possession of a quantity of drugs
6 particularly in a constructive possession context.

7 But he you know probably I'm sure he didn't like to
8 hear that that didn't in my opinion resolve the case but
9 I certainly told him it could be helpful. And then in
10 November a third version of a statement from Ms. Murray
11 came to my office.

12 Q. And what, if any, differences between that statement
13 and the statement that was notarized were there?

14 A. The previous notarized statement?

15 Q. Yes.

16 A. Well, you want me just to read it and then -- or do
17 you want me to -- what do you want?

18 Q. If you can't recall any differences between the
19 statements then that is perfectly fine with me.

20 A. I don't recall. I mean I'd have to look them over
21 and see if they are different. I just know that a third
22 one came with a different date on it.

23 Q. Okay. So based upon your recollection the second
24 statement that came that was signed with an affidavit was
25 her full and entire statement?

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1 A. Say that again; I'm sorry.

2 Q. Based upon your recollection the second statement
3 that came, the one that was notarized, was her full and
4 entire statement?

5 A. I mean at that time it certainly was all that I had
6 that was a notarized statement that I could reasonably
7 assume came from that person that it was purported to be
8 unless it was notarized.

9 Q. So after you talked to Mr. Wright about the second
10 statement that she sent to you what was his response
11 about -- in terms of legal things that you gave him?

12 A. I can't remember for sure. But I'm sure again, what
13 he wanted to hear was that this was what was going to get
14 that trafficking charge dismissed.

15 And I obviously didn't tell him that I thought that
16 Ms. Frierson was just going to up and dismiss it because
17 I had sent her the statement, which I did send it to her.
18 So I'm sure he was disappointed but I don't remember
19 specifically what his reaction was.

20 Q. What -- after that meeting what, if any, kind of
21 action or the next action did you take with the
22 trafficking charge?

23 A. You know there was a lot going on between like
24 August, if I look at my notes, August of 2016 and
25 December of 2016. It started I think in August with a

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1 plea rejection in front of Judge Dennis. And then a new
2 offer got extended. I talked to Ms. Lucas and Tim about
3 it.

4 They requested new copies of all of his discovery
5 which I provided in September. And at some point we went
6 in front of Judge Hughston I think it was.

7 Q. What was the purpose of going in front of Judge
8 Hughston?

9 A. I think again it was another plea offer. There were
10 multiple -- there were Bond Revocation Motions and there
11 was a lot going on in this case. There were Motions to
12 be Relieved.

13 I think the first lawyer to be relieved was Mr.
14 Smiley but he kind of lingered around too because they
15 never really replaced him in that case. And then I think
16 Mr. McCoy was the next to go. I don't think he was
17 involved for very long; then Mr. Cobb.

18 And then in September he in that hearing fired me
19 and then subsequently wrote me a letter right after that
20 firing me as well. So it could have been any of those
21 things. It could have been one of the competency
22 hearings ---

23 Q. --- right.

24 A. We had a couple of those.

25 Q. And we didn't transition to your previous testimony.

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1 What, if any, indication did he give you that he wanted
2 to fire you initially?

3 A. In court he didn't really specify. I don't recall
4 what he specified or nothing stands out to me other than
5 he was just dissatisfied and not happy. You know we had
6 been talking about pleas offers that he didn't like.

7 And I think for anyone in his position when you're
8 incarcerated and you're looking at a lot of heavy
9 sentences it's a lot of pressure. And I think that
10 stress builds. And I think he was frustrated.

11 In the letter it seemed to revolve around, only
12 around Ms. Murray's statement not being good enough to get
13 the case dismissed.

14 Q. Do you have that letter in front of you?

15 A. I do.

16 Q. Can I see a copy of it?

17 THE WITNESS: Your Honor?

18 MR. ISENBERG: May I approach?

19 THE COURT: Yes.

20 [Whereupon, the witness proffers document to Mr.
21 Isenberg]

22 MR. ISENBERG: Your Honor, I beg the Court's
23 indulgence for a moment.

24 THE COURT: Yes.

25 [Whereupon, Mr. Isenberg reviews document]

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1 Q. [Mr. Isenberg] Now what date is the date of the
2 letter in front of you dated for?

3 A. It's dated September 27th.

4 Q. Okay. And so this letter was from Mr. Wright to you
5 regarding your representation?

6 A. Yes, sir.

7 Q. Okay. And this was after a hearing where Mr. Wright
8 indicated to you that he wanted to fire you.

9 A. He indicated on the record in open court yeah that
10 he wanted I think me and Mr. Smiley off of his case at
11 that point. But certainly me I know that he had told me
12 I was terminated.

13 And I think Ms. Lucas indicated that we spoke after
14 that and this letter was received by me shortly after
15 that hearing.

16 Q. And that's the same letter that you received from
17 Mr. Wright?

18 A. Yes.

19 Q. Okay.

20 MR. ISENBERG: Your Honor, permission to enter this
21 letter into evidence?

22 THE COURT: Any objection?

23 MR. CRAIG: I haven't seen it.

24 [Whereupon, Mr. Craig reviews document]

25 MR. CRAIG: No objection.

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1 THE COURT: It's in evidence as State's exhibit 1.

2 Q. [Mr. Isenberg] And so ---

3 THE COURT: --- let's let her mark that. It's hard
4 for her -- she's good but it's hard for her to do that
5 and mark it.

6 MR. ISENBERG: I apologize.

7 [Whereupon, State's exhibit number 1 is marked by
8 the court reporter]

9 [Whereupon, State's exhibit number 1 is entered into
10 evidence by the Court]

11 Q. [Mr. Isenberg] And so after receiving that letter
12 what was the next action you took on this case?

13 A. So if I could go back real quick? So the hearing
14 was on the 23rd, I found some notes, the hearing was on
15 the 23rd in front of Judge Hughston.

16 A 15 year plea offer to seven charges; all other
17 charges nol prossed or reduced was rejected on the
18 record. And at that hearing Mr. Wright fired Mr. Smiley
19 and me on the record.

20 I then later after that hearing spoke to Mr.
21 Wright's mother and sister. I don't know Judge if you
22 want me to go into -- they wanted me to stay on the case
23 and we discussed the case some as well.

24 Q. Right.

25 A. After that ---

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1 Q. --- and after all that he still wrote you this
2 letter indicating he wanted you to be fired from the
3 case?

4 A. Yeah. There may have been other things that -- I
5 know I wrote him back and said you fired me on the record
6 and I got your letter. Here's an order if you want me
7 out.

8 And I again, as I said, spoke to his family and they
9 at least asked me temporarily to hang on. From that
10 point forward there was a feeling that I was just there
11 waiting for them to replace me, which I don't think
12 formally ever happened.

13 I think the next thing that happened in Court was
14 there was a Motion to Reconsider Bond in front of Judge
15 Dennis in October. And Judge Dennis took that under
16 advisement. He wanted to have a status conference on the
17 case prior to taking up the issue of bond.

18 Q. And what, if anything, happened at the status
19 conference in regards to your representation?

20 A. So, we had a status conference on the 18th according
21 to my notes and a bond hearing. The status conference I
22 think Mr. Cochran was present, Mr. Smiley was present
23 even though he had been terminated but also not replaced;
24 he was kind of in a similar place that I was. Ms.
25 Frierson was present and of course Judge Dennis. And I

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1 think the Judge wanted to know how the State was going to
2 proceed. And at that point I think Ms. Frierson pretty
3 much let everybody know she was going to proceed with the
4 video cases first, which at that point would have been
5 Mr. Cochran's cases.

6 And so the Judge set those for February and we had a
7 bond hearing that day. And I think there has already
8 been testimony about what bond was set.

9 Q. Right. And so on the day that Mr. Wright pled do
10 you know or have any reasons why you weren't there
11 present?

12 A. So, well you know I mean it's a lot of what I
13 mentioned. Number one I was protected. So I was in
14 Legislative session and protected from January basically
15 through the end of June or July at that time. I don't
16 remember what the protection order said at that time.

17 But it wasn't my case going to trial. So no one had
18 asked me to be there. No one had told me I needed to be
19 there. It wasn't my case going to trial. I had been
20 fired. I was protected. I mean it's like a laundry list
21 of reasons why I wasn't there.

22 Q. So in your opinion you had no reason to be there on
23 the date that Mr. Wright pled?

24 A. No. And again, no one asked me to be there ---

25 Q. --- right ---

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1 A. --- not Mr. Wright, not his family, not the Court;
2 not anyone.

3 Q. Right. And you -- did you let anyone know that you
4 were going to be protected in Legislative session
5 beforehand?

6 A. It was discussed in that status conference I'm sure.

7 Q. So, in the status conference with the Solicitor,
8 with the Judge and with the other attorneys you let them
9 know you were protected during the period in which he
10 pled?

11 A. Yeah.

12 Q. Okay.

13 MR. ISENBERG: Beg the Court's indulgence for a
14 moment, Your Honor.

15 [Whereupon, Mr. Isenberg and Mr. Limbaugh confer]

16 MR. ISENBERG: I have no further questions for this
17 witness.

18 THE COURT: Just one moment.

19 [Whereupon, the Court reviews documents]
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CROSS-EXAMINATION

BY MR. CRAIG:

Q. Mr. Stavrakis I'm James Craig, the Columbia Bar.

A. Good to see you, sir.

Q. It's nice to meet you. You were retained by Mr. Wright in January of 2014?

A. That sounds about right. If you want me to search I can, but around the time of that trafficking charge.

Q. And you represented him only on the trafficking charge and a couple of related charges.

A. Yes, sir.

Q. And he had some other charges that Mr. Smiley represented him on. And those charges eventually got dismissed, did they not?

A. Down the road but they were pending for the majority of the time that ---

Q. --- they were pending when he hired you for the trafficking charges?

A. And throughout the majority of the case. I don't know exactly when they were dismissed but during all the plea offers, plea negotiations that I was involved with those charges were still pending. I never thought the Solicitor was really going to call those cases -- that case for trial.

Q. Why not?

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1 A. I had talked to Mr. Smiley. It didn't seem like a
2 strong case to me and I thought that -- she never said
3 this to me, don't get me wrong; the Solicitor never said
4 I'm holding these cases for leverage. But I just never
5 got the feeling that she was going to call those cases
6 for trial.

7 Q. Why did she not call the trafficking case for trial
8 in your opinion?

9 A. I think you'd have to ask her. But you know it was
10 a situation where more cases came in. I frankly had told
11 Mr. Wright once the video cases happened these are going
12 to be the first cases she tries against you because
13 they're the strongest ones.

14 Q. So you thought that the distribution on the new
15 charges we've been calling them were stronger than the
16 trafficking charge?

17 A. I mean a video is you know generally...

18 Q. Did you think the Solicitor had a strong case on the
19 trafficking charge?

20 A. I don't know that I would call it strong. I thought
21 it was good enough to go to a jury for sure. And you
22 know when you're looking at a 25 year minimum, that's
23 something to worry about so.

24 Q. Let's talk about Ms. Murray, Ms. Latia Murray, the
25 lady that gave you the statement. When did you first

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1 become aware that she was willing to testify and give a
2 statement for Mr. Wright?

3 A. I don't know that we ever really discussed her
4 willingness to testify as such because we never really
5 had a trial date.

6 But it was fairly early on that either Tim or his
7 family let me know that -- I mean obviously from the
8 beginning he denied those were his drugs. So I knew
9 that. But at some point, I don't know exactly when, they
10 kind of indicated that she would write a statement.

11 Q. And did you ever talk to her and flesh out more
12 details about what she could testify to?

13 A. I did talk to her a time or two, so yeah.

14 Q. Did you ever prepare a statement for her rather than
15 her doing it herself?

16 A. No, sir.

17 Q. Could you have?

18 A. That would not -- I mean she was charged criminally
19 and represented and that would not have been something I
20 would have been comfortable doing as a member of the Bar.

21 Q. But at some point those charges were dismissed and
22 she was no longer represented.

23 A. I don't know when that happened. Yeah, obviously if
24 they were dismissed they still could have been
25 reinstated. I had no problem with her talking to an

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1 investigator. I offered up to make an investigator
2 available if they wanted to pay for one to go interview
3 her. But I just wasn't going to do it myself in light of
4 the fact that she could be prosecuted criminally.

5 Q. Well, she was prosecuted criminally for those
6 charges and she pled guilty to them, did she not?

7 A. She did.

8 Q. Okay. And isn't it correct that she had already
9 pled guilty and that was over with by the time she gave
10 the last statement?

11 A. I'm not sure.

12 Q. What was the date of the last statement?

13 A. November 16th of 2016 is what it says here.

14 Q. So if those charges were over with then you could
15 have talked to her?

16 A. I mean I think I could have talked to her but again,
17 I just wasn't -- I did talk to her but whether I was
18 going to take a statement from her I wasn't going to do.
19 She was able to do it anyway.

20 And again, I offered to make an investigator
21 available to take the statement. I didn't want to be a
22 witness either. So there is a lot of reasons that I
23 choose not to do that.

24 Q. Now let's talk about Mr. Wright. You said he had
25 from the very beginning denied that those -- that he had

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1 any involvement with the drugs in that case.

2 A. He did.

3 Q. He insisted he was not guilty.

4 A. He did.

5 Q. He had a very firm and vehement denial.

6 A. He did.

7 Q. And when you told him that the Solicitor is not
8 going to bring that case to trial or not schedule it and
9 he said let's get a trial, right?

10 A. I never told him that she was not going to bring
11 that case to trial. I told him I didn't think she would
12 call the attempted murder case to trial. It wasn't my
13 case.

14 But just from the conversations I'd had with him and
15 with Mr. Smiley and the age of them and the other options
16 she had it was my opinion that I thought it was unlikely.
17 But I never told him that I can recall that I didn't
18 think she would ever call the trafficking case for trial.

19 Q. Did Tim ask you to file a Motion for a Speedy Trial?

20 A. We discussed it. I can't say and don't see in my
21 notes anywhere where he asked me to file one. And I'm
22 not saying he didn't but I know that we discussed it and
23 I again can only say that I know we discussed it.

24 Q. Irrespective of whether or not he asked you to file
25 a Motion for Speedy Trial did you in fact file a motion

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1 on your own?

2 A. I did not.

3 Q. What evidence did you make on your own to get the
4 case brought for trial?

5 A. Well, I mean there were discussion with the
6 Solicitor over and over and over again with the
7 Solicitor's office and of course reviewing the case with
8 him. So I mean I did what I was supposed to do in order
9 to be ready if it came to trial.

10 But you know in talking to him and I don't think in
11 our conversations he ever disagreed with this when you're
12 facing a mandatory minimum 25 to 30 a trial isn't exactly
13 where you want to be. So that was one of the reasons
14 that we never filed a speedy trial.

15 Q. So ---

16 A. --- and I would also note that is not -- that didn't
17 to my recollection in my conversations with him in court
18 or in the letter he wrote have anything to do with why he
19 said he was terminating me.

20 Q. But he was very frustrated with you.

21 A. He was at that point. I think he was frustrated
22 with everybody, not just me. I think you will see
23 through a number of lawyers he went through.

24 And again, I understand. He was at a very
25 stressful, difficult position where he had no freedom and

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1 he was facing a lot of different charges that could land
2 him in jail for a long time and had the threat of a life
3 without parole sentence hanging over his head.

4 Q. So, initially Tim filed a Motion for Speedy Trial
5 pro se; he did it himself.

6 A. He did, yeah.

7 Q. My notes indicated that was in February of 2016.
8 Does that sound about right?

9 A. I'd have to look at it but yeah, it looks like it.

10 Q. So you came on board in January of 2014 and the
11 motion that Tim filed was February of 2016; almost two
12 years later.

13 A. Right.

14 Q. So certainly there were grounds for a Motion for
15 Speedy Trial to be filed at that point. He was in
16 custody and ---

17 A. --- well he wasn't in custody that whole time. I
18 don't remember when he went back into custody but he was
19 out for a while.

20 Q. But there were sufficient grounds for that motion to
21 be heard by a Judge and let a Judge decide if that case
22 should be called or not, would it not?

23 A. Oh, sure.

24 Q. Was there ever a hearing on the motion?

25 A. Not that I can recall.

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1 Q. Now irrespective of the fact that Tim wrote you a
2 letter saying he wanted to fire you you never were
3 actually relieved as counsel were you?

4 A. By a -- well, I do think I was relieved by oral
5 order that day in court by Judge Hughston. But a
6 substitution order or nothing like that was ever filed.
7 He didn't end up signing the one I sent.

8 Q. You prepared one?

9 A. Yes, I sent him one with a letter at the detention
10 center.

11 Q. And that was never signed?

12 A. Not to my knowledge. I never got one back.

13 Q. And you continued to act as his attorney?

14 A. I appeared when I was required to, yes sir.

15 Q. On the trafficking charge?

16 A. Yes, sir.

17 Q. And the only reason why you didn't appear -- let me
18 rephrase that. You knew he was going to trial on the
19 distribution charges or what you called the video charges
20 in February of 2017?

21 A. Yes.

22 Q. And the reason you didn't appear is because that's
23 not my case, I'm not going. Nobody told you to go.

24 A. Right. It wasn't my case. We had discussed in
25 chambers what case was going forward. And it was going

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1 to be one of Mr. Cochran's cases that went forward. And
2 again, everyone knew I was protected and no one asked me
3 to do anything.

4 Q. How or when did you find out that he had pled guilty
5 to the trafficking charges?

6 A. I'm not sure. I think it was -- I think maybe Mr.
7 Cochran let me know right away pretty quickly but I don't
8 recall exactly.

9 Q. What did you do when you found out that he had pled
10 guilty to that charge?

11 A. I just -- he and I I'm pretty sure had a
12 conversation and I asked him did it include everything
13 and were there any issues with it and he indicated there
14 weren't.

15 Q. You said he. You're talking about Mr. Charles
16 Cochran?

17 A. Mr. Cochran yes.

18 Q. Did you ever go see Tim Wright again after that?

19 A. I did not, no.

20 Q. Did you ever write him?

21 A. No.

22 Q. Did you ever file a motion to have that guilty plea
23 set aside because you weren't there?

24 A. No, sir.

25 Q. That's all. Thank you.

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1	THE COURT: Any redirect?
2	MR. ISENBERG: Just briefly, Your Honor.
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REDIRECT EXAMINATION

BY MR. ISENBERG:

Q. You previously testified that Mr. Wright was on probation for part of the time you represented him, correct?

A. On probation?

Q. Yes, that he had been released on bond.

A. On bond, yes ---

Q. --- I'm sorry, yes not probation. That he had been released on bond during part of your representation.

A. Yeah, probably the first thing, one of the first things I did in the case was get a bond hearing scheduled for him and get him a bond. He was incarcerated at the time I was hired and then released on bond shortly thereafter.

Q. Okay. So about how long had he been out on bond before he had been arrested on new charges and sent back to jail?

A. I'm not sure. I would have to dig through the records and find it. I don't know off the top of my head.

Q. Before he went back to jail did y'all have any conversations about setting a trial date or entering into plea negotiations?

A. We probably had some -- I'm certain we had some

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1 discussions about what I thought was possible in the case
2 and how to resolve it. But no, there was no hurry to go
3 to trial at that time.

4 Q. Okay. So only after he had been arrested and sent
5 back to jail did he indicate that he wanted a speedy
6 trial?

7 A. I think that's fair, yes.

8 Q. Okay. And throughout this entire case he indicated
9 to you that he wanted probation on all charges.

10 A. Again, I think that changed after the new charges.
11 And then of course when he rejected the plea in November
12 I think it was he got served a life notice. It was
13 either one of those last plea rejections he got served a
14 life without parole notice.

15 So I mean I think at that point he knew he wasn't
16 getting probation but for a large part of the case yes;
17 his push to me was that he wanted probation.

18 Q. Okay.

19 MR. ISENBERG: No further questions for this
20 witness.

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EXAMINATION

BY THE COURT:

Q. You did indeed interview the witnesses that were identified by your client?

A. The only witness that was outside of law enforcement that was brought to my attention was Ms. Murray, and I did speak to Ms. Murray.

Q. Okay. And was there anything else that you could do to be adequately prepared to go to trial if it did indeed go to trial?

A. I would have filed and argued suppression motions, challenged the search warrant in the case. There was a lot I would have done had we ---

Q. --- but you were in your mind adequately prepared to go forward with trial if they called it?

A. Yes, sir.

Q. All right. And it was your understanding that you had been discharged by Mr. Wright, is that correct?

A. Two different times, yes Your Honor.

Q. And it's your recollection though that Judge Hughston did indeed by oral order of the Court discharge you?

A. That's my recollection, Your Honor. And again, right after that hearing I did talk to the family and they did ask me to please wait until they could replace

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1 me with someone and you know so I didn't push the issue.
2 But he had clearly fired me and Judge Hughston had said
3 okay.

4 Q. All right. And you indicated that the reason why
5 Mr. Wright discharged you was not because of the speedy
6 trial motion but an overall frustration with the fact
7 that you were not able to get a more favorable plea
8 arrangement?

9 A. I think that was what he was frustrated about. And
10 he specifically obviously mentioned that Ms. Murray's
11 statement was not enough to get his case dismissed was a
12 significant source of frustration for him that the
13 Solicitor would not cut the case loose based on that.

14 Q. Okay. Thank you, sir.

15 A. Yes, sir.

16 [Whereupon, the witness is excused and exits the
17 witness stand]

18 THE COURT: You may call your next witness.
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1 MR. ISENBERG: Yes, Your Honor. The State calls
2 Charles Cochran to the stand.

3 [Whereupon, Mr. Cochran comes forward]

4 THE COURT: Yes, sir. Place your left hand on the
5 Bible and raise your right hand as the Clerk administers
6 the oath.

7 [Whereupon, the witness is duly sworn by the Clerk
8 of Court]

9 THE COURT: Mr. Cochran, pull up your seat there,
10 pull up real close to that microphone and speak loudly,
11 clearly, and slowly in order that we can hear everything
12 that you have to say. Let's start with your full name
13 please sir.

14 THE WITNESS: Charles Cochran, C-O-C-H-R-A-N.

15 THE COURT: Very good.

16 - - - - -

17 CHARLES COCHRAN,

18 Having been first duly sworn,

19 Was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. ISENBERG:

22 Q. Mr. Cochran, thank you for being here today.

23 A. Sure.

24 Q. Can we start with how long have you been practicing
25 law?

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1 A. Ten years.

2 Q. Okay. How long of that has been in the area of
3 criminal defense?

4 A. The entire time.

5 Q. Okay. And how -- what percentage of cases do you
6 take that are concerned with criminal defense?

7 A. One hundred percent.

8 Q. Okay. So where do you currently work?

9 A. I work I'm an Assistant Federal Public Defender in
10 Charleston.

11 Q. Okay. What was your role -- what was your
12 employment at that time?

13 A. Of this case?

14 Q. Yes?

15 A. At that time I was working as a Public Defender in
16 Charleston County.

17 Q. Okay. And how did you come to represent Mr. Wright?

18 A. Mr. Wright came to me. I was assigned that case.

19 It was a pretty unusual circumstance. I think I was
20 asked to come to chambers I believe with Judge Dennis.

21 I was asked to come to chambers. There was some
22 other attorneys there. I believe Mr. Stavrinakis and Jim
23 Smiley were in there. There might have been more people.
24 I was informed of what -- I was basically given a rundown
25 on the history of the case. And the Court essentially

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1 asked me to take some or all of Mr. -- some of Mr.
2 Wright's charges and told me that there would be I
3 believe it was a date certain for a trial within 90 or
4 120 days; something very quick.

5 So I was told about the situation, told what needed
6 to be done. They were basically bringing me in to ask me
7 to essentially represent Mr. Wright in this short period
8 of time for a trial.

9 He had a hearing that day. We went out into court
10 and his other attorneys were -- there was something
11 concerning their representation; bonds and things like
12 that.

13 The Judge said basically denied bond or set some
14 astronomical bond that Mr. Wright referred to. And at
15 that point that was all I knew about the case. I had a
16 very little amount of time to work on it.

17 So it was put on my front burner, spent time going
18 over the discovery and meeting with Mr. Wright a few
19 times, speaking with his family a good bit on the phone,
20 and trying my best to get ready for trial.

21 Q. Now among the charges that you were assigned that
22 day by the Judge did any of them include a trafficking
23 charge?

24 A. I don't recall. Like I said I'm not in that current
25 position anymore so I don't have access to the files but

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1 -- or I wasn't able to go over there and see the file
2 from their archives. The case, the primary focus that
3 the Court was asking me to get involved in was what they
4 had set up as a date certain for trial.

5 And that I don't think was a trafficking charge.
6 That was a distribution charge to an undercover
7 confidential informant.

8 Q. And you said after you had discussions with the
9 Judge you met with Mr. Wright a couple of times, correct?

10 A. Yes.

11 Q. Okay. And in those meetings you discussed just
12 those charges you were given or all the charges?

13 A. You know I mean we were taking a universal approach
14 to it but ---

15 Q. --- can I back you up one second?

16 A. Yeah.

17 Q. In terms of universal approach did you mean that Mr.
18 Wright and you discussed plea negotiations with all the
19 charges?

20 A. Yes. Anything that was pending against him would
21 have at least been discussed between us.

22 Q. Did he consent to you negotiating on his behalf with
23 all the charges?

24 A. Well, we weren't really negotiating. I mean the
25 extent of negotiations in this case was really the

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1 prosecutor extending offers trying to get the case
2 resolved and those offers being rejected by Mr. Wright.
3 I mean there was no real negotiating because there wasn't
4 really anything that he was willing to take.

5 He was fixated on the trafficking charge not being a
6 legitimate charge. That was not as much of my concern
7 because we had to prepare for a trial on a distribution
8 charge that was completely separate.

9 He participated to an extent in reviewing his
10 discovery and preparing for trial. And we got ready for
11 it and the day came to do the trial and you know we were
12 going to go forward; we were ready to go forward.

13 I understood and sympathized with Mr. Wright's
14 concern about how long I'd had the case so I did request
15 a continuance knowing pretty much that it would be denied
16 because this was a date certain for trial. Mr. Wright
17 was going to either have to represent himself or let me
18 represent him at trial or plead guilty.

19 Q. Leading up to that day of trial what, if any, kind
20 of indication did Mr. Wright give you that he wanted Mr.
21 Stavrinakis present?

22 A. He, I mean he had retained him at some point so
23 there was I think some feeling that he wanted him there.
24 I can't remember if he really said anything about whether
25 or not he needed him there. We were not there in court

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1 for the trafficking charge. We were there in court for a
2 case that we were going to go to trial on.

3 Q. Right.

4 A. So that's what we were focused on. And Mr. Wright
5 certainly could have pled to some of his charges and
6 remained -- kept his other charges pending if he had
7 wanted to.

8 Now, with that said, with whatever agreement the
9 government gave to keep him from getting 30 years or
10 whatever it was you know he might have had to agree to
11 plead to everything.

12 But on the day that he actually entered the plea it
13 was a very long and excruciating process. So he was
14 downstairs in the holding cell, he was up here in this
15 holding cell too, brought up so that his sister could
16 speak to him face to face.

17 So I mean we spent an entire morning I think myself
18 and his sister in the holding cell with Mr. Wright. That
19 entire time I was laying out for him exactly what he was
20 facing and what his options were because at that point I
21 was just kind of like his co-pilot at that point because
22 these decisions had to be made that day.

23 And he just had to make one of those decisions and
24 he just really didn't want to make any of those
25 decisions. He did not want to go to trial. He did not

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1 want to plead guilty. He didn't want to do anything. So
2 the focus was not on Mr. Stavrinakis. He wasn't really
3 being discussed. That was sort of a side issue.

4 There was going to be an issue of whether or not all
5 of the charges were going to be pled to but I never got
6 the feeling that anyone cared whether or not he was there
7 because it wasn't going to have an impact on what we did
8 that day.

9 Q. In your opinion what happened to change his mind
10 after this to plead guilty?

11 A. From my recollection I don't remember the actual
12 sequence of events in terms of what I was actually
13 present for or what happened while I was representing
14 him.

15 But Mr. Wright had been in the position where he got
16 plea offers that he rejected and they got progressively
17 worst. So he was feeling the pressure from going from 10
18 or 15; whatever it was, to 18 to 20 to 25 to potentially
19 30.

20 And once his sister and I were in that booth with
21 him I was just saying you know it's basically gotten as
22 bad as it can get.

23 So you can -- I'm perfectly fine to go to trial.
24 The Judge is not going to continue it. You can represent
25 yourself. I'm more than happy to represent you but

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1 you're either going to plead guilty to this charge today
2 or go to trial. And that's it. And once he was up
3 against that wall he finally just decided to go forward
4 with the guilty plea.

5 Q. So after going forward with the guilty plea to the
6 specific charge how did the other charges that he was
7 being prosecuted for by the Solicitor's office come into
8 play in terms of having conversations with the Solicitor
9 and with Mr. Wright?

10 A. So, I mean his representation with all of his
11 private attorneys was tenuous at that point because he
12 had fired or grieved or had them relieved or whatever it
13 was. So whether or not I had actual open file on every
14 single charge I can't recall.

15 But -- and I also don't I don't recall whether or
16 not because I was in here for previous testimony and I do
17 remember Ms. Mulkey going to talk to Scarlett after the
18 Judge indicated he was thinking about giving him 30 years
19 because what I remember she and I had said we thinking
20 he'll get 25. We can agree on 25 if we go forward with a
21 plea.

22 I honestly cannot remember whether that was
23 contingent on him also pleading to the trafficking
24 charge. But everything would have been pled to either
25 just by a simple agreement from Mr. Wright wanting to

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1 take care of all his stuff at once or because part of
2 that 25 year deal was contingent on him pleading to
3 everything I don't know. I can't remember.

4 Q. Okay. So customarily you're saying you would have
5 had to either agree to go forward with all the pleas or
6 agreed to drop all the charges before he would have
7 entered into that agreement?

8 A. The reason I can't remember is because the offer was
9 almost not an offer. He was pleading to close to the
10 maximum or the 25 year minimum anyways so.

11 Q. But based upon your professional experience you
12 would have had a conversation with him about the charges
13 that he was going to plead to.

14 A. Yeah. I mean it would have all been up to him at
15 the end of the day. I was not twisting his arm one way
16 or another to plead to the distribution, the trafficking
17 whatever you know.

18 Q. Right. And so what I'm getting at is how did he
19 verbalize his willingness to consent to this 25 year plea
20 offer?

21 A. We sat; we were sitting in the booth. His sister
22 was present. Mr. Wright was extremely emotional and so
23 was his sister. And his sister had had a very active
24 role and a very, very strong influence on his decision-
25 making. And at one point he was basically begging her to

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1 let him plead to the 25 because he had already rejected
2 all these offers apparently under her advice with I think
3 15, 18, and 20 and now we were at 25. And at some point
4 he was literally begging her to let him accept that 25
5 years.

6 And she said something to the effect of just putting
7 it in his hands and letting him make the decision. And
8 then he did decide to do that. I mean it was
9 unequivocal.

10 Q. Okay. And just to cover all the bases at some point
11 that day you had had conversations with him about being
12 subject to LWOP if he didn't enter this plea?

13 A. Yes.

14 Q. Okay. And you at some point before or after he made
15 that decision you talked about the charges that he was
16 going to enter and the charges that would be nol prossed
17 as a result.

18 A. Yes.

19 Q. And so you told him if you plead to this you will
20 not be tried for any cases after this.

21 A. Right.

22 Q. And he indicated he was willing to plead at that
23 point?

24 A. Yes.

25 Q. Okay. And so he never gave you any indication

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1 during this day that someone else was representing him on
2 the charges?

3 A. No. Well, I mean everybody knew like I said the
4 Judge that took the plea, myself, Leon, Jim Smiley; we
5 had all been in rooms together discussing -- everybody
6 knew very well who represented him on what and what was
7 going on.

8 And Mr. Wright and his family were all extremely
9 involved in this process too. So everybody knew what
10 lawyers knew, which case is the best. This was a
11 universal plea agreement that Timothy wanted to enter
12 into that day to have everything handled at once.

13 Q. So to the best of your knowledge you had the
14 authority to enter the plea?

15 A. Yes, because I mean sitting there and going into the
16 plea doesn't require much knowledge of the case just to
17 stand next to him and have him enter into the plea
18 because I was knowledgeable about the fact that he had
19 counsel.

20 And they had gone over this for a long period of
21 time that they all knew where they stood on those cases.
22 And if he felt comfortable pleading guilty to it and if
23 the Court was comfortable taking the plea then I was fine
24 to stand up for him as part of my plea.

25 Q. Right. Because based upon your professional

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1 experience if they were comfortable with it being in the
2 know then you were comfortable with it.

3 A. Yes.

4 MR. ISENBERG: Beg the Court's indulgence for just
5 one moment, Your Honor.

6 [Whereupon, Mr. Isenberg and Mr. Limbaugh confer]

7 MR. ISENBERG: No further questions for this
8 witness.

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1	EXAMINATION
2	BY THE COURT:
3	Q. Mr. Cochran?
4	A. Yes.
5	Q. You've been doing criminal defense work for a period
6	of time. This was a controlled buy and they had a video?
7	A. Yes.
8	Q. Have you ever tried one of those before?
9	A. I have.
10	Q. A bunch of them?
11	A. Yeah.
12	Q. And I know it was on the fast track 90 to 120 days.
13	But in a video case there is really not a lot to prepare
14	is it?
15	A. No. I mean this was not a complicated case. This
16	was the ---
17	Q. --- you could have had two years and you wouldn't
18	have been any more prepared than you were when you were
19	ready for trial that day ---
20	A. --- no ---
21	Q. --- with regard to the distribution cases?
22	A. That's correct, yes.
23	Q. And you reviewed all the discovery and discussed it
24	with your client?
25	A. Yes.

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1 Q. You didn't meet with him but a couple of three times
2 but did you feel like you were adequately prepared to go
3 forward?

4 A. I did because it was like you said a video case. It
5 was not a particularly long video. There weren't any
6 technical issues with the video.

7 Literally the entire trial would have been about
8 what was on the video and the testimony of the CI, who we
9 were not -- you're not really able to interview them
10 beforehand anyways.

11 And the only other preparation was the other
12 individual who was in the car with Mr. Wright and figure
13 out whether or not he was going to be able to raise any
14 real suspicions from the jury standpoint about whether or
15 not there was a reasonable doubt.

16 And like I said I did not twist Mr. Wright's arm to
17 plead guilty. I told him you know sometimes these cases
18 go to trial and you can have a trial if you want to and
19 it's going to be about the jury watching the video and
20 deciding what they think happened. So it was a very
21 straightforward case in that sense.

22 Q. Very good.

23 MR. CRAIG: May it please the Court?

24 THE COURT: Yes.

25

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CROSS-EXAMINATION

BY MR. CRAIG:

Q. Mr. Cochran I'm James Craig from the Columbia Bar.

A. Nice to see you.

Q. So you were assigned this case when you worked for the Charleston County Public Defender's office?

A. Yes.

Q. And you were assigned this case sort of on spur of the moment?

A. I was, yes.

Q. And how much advance notice did you have before you were told to go over to this hearing?

A. None. I honestly don't remember how. I don't know if they called me from my office or if I happened to be at court or what it was.

Usually a case being assigned to me would be in the form of a file coming to me but this time I got a call from the Court requesting to go up to chambers to take this case.

Q. And the hearing that you attended was an evidentiary hearing in preparation for a bond hearing?

A. It was immediately after our chambers meeting. And the only thing I recall was the issue of a bond being discussed; that Mr. Wright wanted to get a bond set. That's all I remember of it.

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1 Q. But you were in a hearing in chambers about the
2 evidence in the case?

3 A. About the evidence in the case?

4 Q. Yes.

5 A. I don't recall.

6 Q. Do you recall what was discussed in chambers?

7 A. They were -- for when I was in there everyone was
8 already in the room when I arrived so I don't know what
9 they talked about beforehand. But they gave me a run-
10 down on the history of the case, the complicated you
11 know...

12 Q. You said they; was Mr. Stavrinakis there?

13 A. I believe he was. I know Jim Smiley was there and
14 the Judge was there. So the Judge was filling me in on
15 the history of the case. Mr. Wright was not present.

16 And they were telling me how it progressed and
17 basically telling me what they were going to be asking
18 the Public Defender's office to do, which is -- which was
19 try the case because they had a date certain.

20 Q. And then after that hearing in chambers y'all went
21 into the courtroom?

22 A. Yes.

23 Q. And Judge Dennis announced the 50 million dollar
24 bond.

25 A. He did, yes.

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1 Q. Which is as you said essentially is like denying
2 bond?

3 A. Yes.

4 Q. And when Judge Dennis asked you if you had anything
5 to say on behalf of Mr. Wright at that point you just
6 said I just got the case; I don't know anything about it,
7 essentially?

8 A. Right. I didn't know anything about it.

9 Q. So there was nothing you could add at that point.

10 A. No.

11 Q. And so the next time you went, you saw Mr. Wright
12 was when was that do you recall?

13 A. I don't recall. Like I said my client visits would
14 have been noted in our files that would be in archives.
15 I didn't get a chance to go to archives and look at them.

16 Q. Mr. Wright testified, and I don't think you were
17 here at the time, he testified the next time he saw you
18 was in January of 2017 you went to see him at the jail.
19 Does that sound about right?

20 A. It could be, yeah.

21 Q. Did you have a copy of the video that you showed him
22 at the jail?

23 A. I might have done one visit. Usually I'll do like a
24 visit with a meet and greet with a client before I have
25 discovery so I might have done that first. But then soon

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1 after because I would have gotten the discovery right
2 away just because I came in so late in the game. That
3 was all he wanted. He just wanted to see the videos. So
4 we went and watched the videos ---

5 Q. --- and did he agree that the person in the video
6 that was actually doing the buy or the sale was Xavier
7 Washington, his co-defendant?

8 A. He did tell me that, yeah.

9 Q. Was he pretty adamant that it was Xavier not him
10 that was...

11 A. He was. I mean to an extent. He was adamant that
12 Xavier was involved in it.

13 Q. Did he ask you to subpoena Xavier?

14 A. I don't know that -- he probably did. From my
15 recollection Mr. Washington was potentially going to be
16 called by the government as a witness but we could have
17 gotten him into court too if we had wanted to.

18 Q. Did you yourself interview Xavier?

19 A. I can't recall. We would have had to -- if he was
20 represented at the time we would have had to get whoever
21 his lawyer was to consent to us talking to him.

22 I don't have any recollection of actually sitting
23 down with him and talking to you. I believe we sent my
24 investigator to go talk to him.

25 Q. Yeah, Mr. Wright testified that when you met with

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1 him on the Sunday before the trial that you said that you
2 had met with Xavier the Friday or Saturday before that.

3 A. Right.

4 Q. Of course by that time Xavier's charge had been
5 resolved.

6 A. Right.

7 Q. So he would not have been represented by an
8 individual, is that right?

9 A. Right. Okay.

10 Q. So you don't deny that you may have talked to
11 Xavier?

12 A. No, yeah in some way shape or form I believe either
13 myself or my investigator spoke with him, figured out and
14 kind of got an idea of what he would testify to if called
15 to the stand by either party.

16 Q. And he was willing to testify for Mr. Wright?

17 A. From my recollection to an extent. I mean I don't
18 know that he would have gotten up on the stand and said
19 that Mr. Wright had no idea what was happening in the
20 truck when this drug sale went on.

21 Q. So you had filed a Suppression Motion I think about
22 the video had you not?

23 A. I don't recall.

24 Q. In any event the motion was not granted.

25 A. Right. The video was coming in.

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1 Q. The video was coming in.

2 A. Yeah.

3 Q. And did you ask the Judge for a continuance before
4 the trial started?

5 A. I did.

6 Q. And did you tell the Court about the potential
7 witness?

8 A. About Mr. Washington?

9 Q. The transcript indicates that you told the Court
10 there is a new witness that surfaced and apparently --
11 the transcript of the Court said the prosecution said out
12 of state witnesses are coming here and we're going
13 forward today regardless.

14 A. Okay. I don't remember that.

15 Q. The bottom line is Judge Dennis said we're going to
16 try this case today or?

17 A. Yes.

18 Q. That's it.

19 A. Right. And we asked for a continuance because Mr.
20 Wright really wanted a continuance. It had been made
21 clear from the first day that I came into the case that
22 the Court was doing everything it could to make sure that
23 the case got tried on this specific date because -- which
24 is not unusual when a Defendant has multiple lawyers and
25 is kind of cycling through different representation. At

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1 some point the Court makes them put up or shut up; either
2 go to trial or plead guilty or do something and stop
3 getting continuances because you've got new lawyers. And
4 that's what it did here.

5 Q. Did you contact Mr. Stavrinakis when it became
6 evident that Mr. Wright was going to plead guilty to the
7 trafficking charge?

8 A. My recollection is that we spoke by email before the
9 plea but it might have been immediately after. There was
10 an understanding moving forward that because Mr.
11 Stavrinakis had been fired, you know relieved he was in
12 this sort of tenuous representation that you know Mr.
13 Wright and I could kind of go forward as we thought was
14 best as these things came up.

15 And honestly we were expecting to go to trial. I
16 was expecting to go to trial at that point because his
17 offer was 25 years. Usually you don't plead guilty to 25
18 years. If that's what you're looking at you can go to
19 trial.

20 But when we actually were picking the jury you know
21 Timothy refused to allow that case to go to trial and he
22 decided to plead guilty.

23 Q. Did he not express dissatisfaction with your
24 preparation?

25 A. Yeah. I don't know if he was dissatisfied with my

Timothy Wright v State
Post-Conviction Relief-Charles Cochran-Cross-Examination by Mr. Craig
July 22, 2019

1 preparation in particular or just the fact that I had
2 only had the case for however long it was but...

3 Q. Which was a very short period of time.

4 A. It was a short period of time. And I felt prepared.
5 Like I told the Judge I did feel prepared to try the
6 case. It was a simple straight-forward case. But I also
7 understood any potential misgivings that Mr. Wright had.

8 So under normal circumstances if a client had asked
9 me to file or request a continuance with my adequate
10 preparation I would have said no, we're ready to go to
11 trial.

12 But given the unusual circumstances his misgivings
13 were very understandable so I thought it was only fair to
14 tell the Court that we did have some grounds for a
15 continuance and asked that they give us more time.

16 Q. And do you recall and you stated it on the record
17 that a new witness had just surfaced. Do you recall who
18 that witness was?

19 A. I do not. I would assume it was Xavier Washington
20 but I don't recall.

21 Q. Did you subpoena anybody?

22 A. I don't recall. I know we had an investigator
23 working on the case and he would have been the one going
24 and serving subpoenas.

25 Q. Thank you.

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1 MR. ISENBERG: No redirect, Your Honor.

2 THE COURT: All right. Very good. You may step
3 down.

4 [Whereupon, the witness is excused and exits the
5 witness stand]

6 THE COURT: You may call your next witness.

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Timothy Wright v State
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1 MR. ISENBERG: Your Honor that is the conclusion of
2 the case the State is prepared to present. We are ready
3 and willing to give a brief closing statement if Your
4 Honor would allow it.

5 THE COURT: I'll be glad to hear from you, yes.

6 MR. ISENBERG: Your Honor ---

7 THE COURT: --- well first -- we will recognize the
8 Applicant first.

9 MR. ISENBERG: Thank you.

10 MR. CRAIG: Thank you, Your Honor.

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Timothy Wright v State
Post-Conviction Relief Hearing-Closing Arguments-Remarks by Mr. Craig
July 22, 2019

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CLOSING ARGUMENTS

BY MR. CRAIG:

I have prepared a memorandum in support of the motion. I would like to offer that up that sort of summarizes our case.

THE COURT: Very good.

MR. CRAIG: And I think that -- I've got a copy for Your Honor as well. May I approach?

THE COURT: Yes.

[Whereupon, Mr. Craig proffers documents to the Court]

MR. CRAIG: Your Honor, I prepared that before this hearing today and I don't think I heard anything today that changes what is in the memorandum. Maybe a word or two but I think Your Honor can certainly tell what may have varied.

I didn't see any material variance in what I heard today as far as testimony and what is in the memorandum. So I think the memorandum will pretty much sum it up and whatever. And I'm sure Your Honor is going to take this matter under advisement and consider it.

But what I would like Your Honor to focus on is the fact that Timothy was being hit with multiple charges. And it sounds to me like some of them got dismissed even before this trial came up that they were without a lot of

Timothy Wright v State
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1 substance. And the trafficking charge I think was one
2 that was the lynchpin that was keeping him from being
3 able to negotiate a decent plea on the other charges.
4 And ---

5 THE COURT: --- sure. One of the things that is
6 kind of interesting is that, of course I understand his
7 frustration because that's the weakest of the case. He
8 wasn't there, the girlfriend wasn't there, there was
9 drugs in the house. That's all I know about it. But it
10 sounds as though it's constructive possession case. The
11 fact that he was not there might have made it more
12 tenuous.

13 But the bottom line is his allegations against these
14 lawyers are that they did something wrong. See these
15 lawyers although they might want to can't make the
16 Solicitor drop the case. And if indeed he was -- stayed
17 or had or there was some probable cause to say that he
18 was either at the house, knew about the drugs, had
19 constructive possession of the drugs, had the right to
20 control the drugs then -- there is nothing they can do to
21 make them drop the charge.

22 MR. CRAIG: Agreed ---

23 THE COURT: --- and that's the problem that he
24 found himself in. But the question is did these lawyers
25 do anything wrong? Were they ineffective?

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July 22, 2019

1 MR. CRAIG: And that's exactly the question, Your
2 Honor. And what I submitted is in Mr. Stavrinakis' case
3 certainly he couldn't make the Solicitor drop the
4 charges. But he can have a hearing on the Motion for
5 Speedy Trial and have the Judge say we're going to set
6 this case for a trial.

7 THE COURT: Right.

8 MR. CRAIG: And he didn't. He didn't present that.
9 And over the course of two and half years he never
10 pursued it.

11 THE COURT: Right. Do you do criminal defense work
12 as well?

13 MR. CRAIG: I do.

14 THE COURT: And how often do you file a Motion for
15 Speedy Trial? As a general rule delay works to the
16 advantage of the Defendant. Don't you think that's a
17 legitimate maxim of criminal law?

18 MR. CRAIG: Most of what I do is in federal court
19 and most of the time ---

20 THE COURT: --- that's on the fast track ---

21 MR. CRAIG: --- yes, they're always on the fast
22 track ---

23 THE COURT: --- but do you understand what I'm
24 saying?

25 MR. CRAIG: I do understand what you're saying ---

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Post-Conviction Relief Hearing-Closing Arguments-Remarks by Mr. Craig
July 22, 2019

1 THE COURT: --- all right, and ---

2 MR. CRAIG: --- but I think Your Honor that in this
3 case because it strikes me this is a very weak case the
4 trafficking charge was a very weak case and if he could
5 have gotten a trial on that charge and gotten it -- found
6 not guilty or maybe they would have dropped it at some
7 point on the eve of the trial when the trial date was
8 set.

9 But the bottom line is despite of his repeated
10 requests for Mr. Stavrinakis to pursue getting a trial on
11 that he just didn't do it. And that charge kept hanging
12 around and hanging around.

13 Now it may be speculation as to what would have
14 happened to the distribution charge if the trafficking
15 charge had been dismissed. But the testimony is that he
16 could have gotten a pretty good deal on the distribution
17 without the trafficking hanging around. So that's where
18 the mandatory minimum is kicking in.

19 THE COURT: Right. Anything further? I'm going to
20 take it ---

21 MR. CRAIG: --- everything is in the memo. Thank
22 you, Your Honor.

23 THE COURT: Very good. Anything further?

24 MR. ISENBERG: Yes, Your Honor.
25

Timothy Wright v State
Post-Conviction Relief Hearing-Closing Arguments-Remarks by Mr. Isenberg
July 22, 2019

1 CLOSING ARGUMENTS

2 BY MR. ISENBERG:

3 I would say that the State or from the State's
4 recollection there have been four issues I think raised
5 in this case. Number one being the failure to file the
6 Motion for Speedy Trial on behalf of Mr. Leonidas [sic].
7 And he testified that part of the time that the Applicant
8 was -- he was representing the Applicant the Applicant
9 was out of jail.

10 There was no request for a speedy trial. Only after
11 he got back into jail did he sort of want to push this
12 charge. And he advised the Applicant he testified that
13 he advised the Applicant there is a 25 year mandatory
14 minimum here; you do not want to push this charge.

15 And I think the other -- so I think on that note he
16 cannot be found deficient or the burden cannot be
17 overcome for deficiency there because he advised the
18 Applicant that I'm not going to file this Motion for
19 Speedy Trial charge. I don't want you subject to 25
20 years, which resulted in the Applicant moving for him to
21 be fired.

22 He basically based on the testimony of the Applicant
23 said file this motion or I'm going to terminate you. And
24 he advised him I don't think it's in the best interest
25 and so that it terminated him. The other allegation

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July 22, 2019

1 against Mr. Leonidas [sic] ---

2 THE COURT: --- I think his statement was not so
3 much about the Motion for Speedy Trial but that he was
4 dissatisfied with the plea negotiation. That's the way I
5 recall the testimony.

6 MR. ISENBERG: Okay. The way that I recall the
7 testimony was that there was a severe disagreement over
8 the fact that they should file this motion. And the
9 Applicant basically wanted this motion to be filed or he
10 wanted to fire Mr. Leonidas [sic] because he wanted to go
11 forward with this charge and this charge alone.

12 And like Your Honor said defense counsel had no --
13 he doesn't decide which case goes forward at which time.
14 The Solicitor chooses which case goes forward and then he
15 has to bear the consequences of that. And I think that's
16 what led to the termination. So I'm not sure how they
17 can prove deficiency when he advised him that it was not
18 in his best interest and as a result he was terminated
19 from the case.

20 Which leads me to the other allegation against Mr.
21 Leon [sic] for failure to advise on the subsequent plea
22 agreement based upon that trafficking charge that he
23 previously represented him for. I'm not sure -- I don't
24 see any way he could overcome the burden of proof on
25 deficiency or prejudice if everyone is in agreement that

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July 22, 2019

1 Mr. Leon [sic] is not representing you on this charge
2 anymore. Mr. Leon's [sic] testimony said that he said
3 that when he walked out that courtroom the Judge ordered
4 him to be taken off the case. I'm not sure how you could
5 find prejudice or deficiency when to the best of your
6 knowledge the Court had removed you from the case.

7 THE COURT: All right. Did Mr. Wright -- there was
8 some discussion about him writing the Bar and filing
9 grievances. Did Mr. Wright file a grievance against -- I
10 can't pronounce it.

11 MR. CRAIG: Stavrinakis?

12 THE COURT: Stavrinakis.

13 MR. CRAIG: Yes, he did.

14 THE COURT: Okay. Very good.

15 MR. ISENBERG: And so then I think the two charges
16 that Mr. Wright admitted on cross-examination he had
17 against Mr. Cochran was the failure to continue and the
18 failure to investigate. Mr. Cochran with failure to
19 continue said he was ready to try the case.

20 THE COURT: And he did move for a continuance.

21 MR. ISENBERG: And he did move for the continuance
22 so I don't see how you could argue deficiency there
23 because he moved for it based upon a meritorious issue
24 that he had a witness out there that he wanted to locate.
25 And also the failure to investigate, the counsel and the

Timothy Wright v State
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July 22, 2019

1 Applicant agree that he investigated the co-defendant.

2 And counsel said that based upon the co-defendant's
3 interview he didn't think the testimony would be fully
4 favorable. So I think the interview goes to deficiency
5 and I don't think you can overcome the burden there.

6 And the testimony based upon counsel's recollection
7 of not being very favorable I'm not sure they can show
8 any prejudice because that's the only indication that we
9 have on what Mr. Washington would have actually
10 testified. Anything that is beyond that is mere
11 speculation.

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Timothy Wright v State
Post-Conviction Relief Hearing
July 22, 2019

1 THE COURT: All right. I'll tell you what I'm
2 going to do is I'm going to review this transcript in its
3 entirety. And I want to take an opportunity to study
4 your memorandum. And in the meantime it might be a good
5 idea for both of y'all to submit proposed orders. How
6 long do you anticipate it will take for you to submit a
7 proposed order?

8 MR. CRAIG: One day next week.

9 THE COURT: Okay. And how about from the State?
10 You might have more than one order to prepare.

11 MR. ISENBERG: Yes, Your Honor. Friday of next
12 week?

13 THE COURT: Okay. Very good. Fifteen days from
14 today's date.

15 MR. CRAIG: Your Honor, should we submit those via
16 email to your Clerk?

17 THE COURT: Well, I would prefer seeing that these
18 are all done on paper so I would suggest that you send it
19 to me in its original form with a self-addressed stamped
20 envelope.

21 MR. CRAIG: Okay. Thank you, Your Honor.

22 MR. ISENBERG: Thank you, Your Honor.

23 THE COURT: Very good. And good luck to you.

24 MR. WRIGHT: Thank you, sir.

25 MR. CRAIG: Thank you.

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1 THE COURT: And it's critical on this case and all
2 of them that all issues be addressed.

3 MR. CRAIG: Judge, good to see you.

4 THE COURT: Good to see you. That all issues be
5 addressed.

6 *****END OF TRANSCRIPT OF RECORD*****
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Timothy Wright v State
Certificate of the Court Reporter
July 22, 2019

C E R T I F I C A T E

I, the undersigned, Joyce C. Rueger, Official
Circuit Court Reporter for the Ninth 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 Common Pleas for Charleston County, South
Carolina on the 22nd day of July, 2019.

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

December 31, 2019

Joyce C. Rueger, CVR-M
Court Reporter

Timothy Wright v State
Certificate of the Court Reporter
July 22, 2019

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Carolina on the 22nd day of July, 2019.

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

December 31, 2019



Joyce C. Rueger, CVR-M

Court Reporter

2014A1616260047-48

To whom it may concern

I Katria murray am writing
 this statement that I have never
 seen Tim montez wright with
 any type of substance at my
 Residence 12c Smith St. I have
 plead guilty to the charges
 in Dec 2015 and have been

FILED
 2016 SEP 21 PM 2:44
 CLERK OF COURT
 BY [Signature]

Subscribed and Sworn to before me

this 21st day of September, 2016

[Signature] Kim D. Williams ODOM

Kim D. Williams - ODOM
 NOTARY PUBLIC FOR SOUTH CAROLINA
 My Commission Expires April 4, 2021

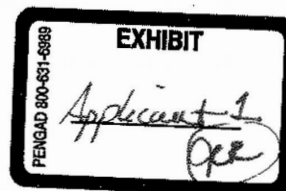
9.21.16

Katria murray
 1537 Grimboll Rd
 Chas, SC 29412

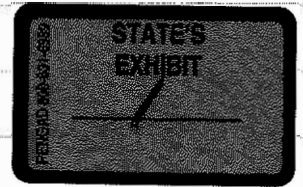
5.13.83

843 4442 5440

X Katria Murray
 [Signature]



9-27-2016



Mr. Starrinakis,

I writing to inform you that I relieving your lawyer duties. I am not satisfied with the form of events that happened over the last year while you were my attorney. I recently start to notice that you were surprised on how fast I started to gain more understanding about the law and my case. Now one incident I have to address which concerns me is that one of my charges that you are real familiar with, which has to do with Mrs. ~~Latia Murray~~ "Latia Murray" already taking responsibility for the "controlled substances" allegedly found in her house. A letter was written without any signs of threat of sound mind and body and notarized and filed with the Clerk of Court. Why you as my lawyer continue to stir me IN the direction of pleading to these charges? It does make any sense. You are supposed to be defending me not working against me. And that, Mr. Starrinakis I am real uncomfortable with. It's 2 against one, you and the solicitor against me. You know that the charges that was taken by the defendants who already received probation are supposed to be dropped immediately. I'm truly disappointed in your service to me and I can no longer receive your services on that note.

Respectfully Submitted

Tim Wright

Timothy M. Wright

cc
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 SDC

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
 COUNTY OF CHARLESTON)

Timothy M. Wright,) Case No.: 2018-CP-10-0599
 S.C.D.C. No. 306187,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

~~PROPOSED~~ ORDER OF DISMISSAL

2019 OCT -1 AM 9:57
 FILED
 JULIE J. ARNETT, CLERK
 CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief filed by Timothy James Wright ("Applicant") on February 2, 2018. Respondent made its return on on April 10, 2019. The Court convened an evidentiary hearing into the matter on July 23, 2019, at the Charleston County Courthouse. Applicant was present at the hearing and represented by James P. Craig. Jacob Isenberg and Benjamin Limbaugh of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Thereafter, Applicant's sister ("Lucas") testified. Applicant's co-defendant ("Murray") also testified. Applicant's original counsel Leonidas Emanuel Stavrinakis ("Stavrinakis") also testified. Applicant's plea counsel Charles Cochran ("Cochran") testified as well. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original plea transcript, the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's direct appeal records, and the pleadings. After a thorough review of all the evidence and testimony in the record, this Court finds Applicant has not met his burden of establishing any constitutional

deprivations or other grounds entitling him to relief and denies and dismisses this application with prejudice.

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. Applicant was indicted in the July 2014 term of the Charleston County Grand Jury for trafficking cocaine (2014-GS-10-3515). Applicant was indicted at the October 2015 term of the Charleston County Grand Jury for three counts of possession of a stolen handgun (2015-GS-10-5655, 5656, 5657) two counts of cocaine distribution, third offense (2015-GS-10-5649, 5651) and two counts of trafficking cocaine, second offense (2015-GS-10-5652). Initially, Leonidas Emanuel Stavrinakis represented Applicant. Thereafter, Charles Cochran represented Applicant. Lauren M. Frierson, of the Ninth Circuit Solicitor's Office, prosecuted the case. On February 6, 2017, Applicant pled guilty to all charges. The Honorable Markley Dennis, Junior, sentenced Applicant to imprisonment for concurrent terms totaling at twenty-five years.

Applicant filed a timely notice of appeal. On November 30, 2017, the South Carolina Court of Appeals dismissed his appeal. The Remittitur was issued on January 2, 2018.

II. PRESENT APPLICATION

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

1. "Ineffective Assistance of Counsel of my attorneys Charles Cochran, Esq. and Leon Stavrinakis, Esq. as neither was prepared to represent me in trial when the case was called and Mr. Stavrinakis did not even appear when the case was called."
2. "Trial judge required me to either proceed to trial with Mr. Cochran present in court over my objections that Mr. Cochran was prepared to go to trial and that Mr. Stavrinakas was not present."

Applicant requests relief to be allowed to withdraw his guilty plea, for his sentence to be vacated, and for a new trial to be ordered. At the evidentiary hearing, Applicant enumerated his allegations as follows: (1) Ineffective Assistance of Counsel based upon the failure to file a speedy trial motion; (2) Ineffective Assistance of Counsel based upon the failure to communicate; (3) Ineffective Assistance of Counsel based upon the failure to file a continuance motion; and (4) Ineffective Assistance of Counsel based upon the failure to investigate a co-defendant.

III. FACTUAL CIRCUMSTANCES OF THE UNDERLYING CHARGES

At the plea hearing, the Assistant Solicitor presented the following facts concerning each relevant charge:

Beginning with indictment 2014-3515 that would be the trafficking of cocaine 20 to 100 grams on January 2, 2014 Charleston Police Department narcotics executed a search warrant at [redacted] Smith Street in Charleston County after receiving tips that the [Applicant] was selling drugs from the apartment. They had a search warrant that was based upon information not only from a C-I but trash pulls where detectives located several bags with cocaine residue, marijuana stems, and marijuana cigarettes. During the search detectives located 1,175 dollars, miscellaneous paraphernalia for drugs to include grinders and scales, a bottle of what is known as Cut – Isotol [phonetic] and 261.8 grams of cocaine with a street value of 9,000 dollars. It was located in the same bedroom as men's clothing, miscellaneous paperwork in [Applicant's] name; pictures of the [Applicant] in men's clothing matching the size of the defendant were located throughout the apartment. The [Applicant] was not home at the time so officers went to an address at [redacted] Fort Johnson Road also in Charleston County where they were familiar with [Applicant] living. They observed him exit the driver's seat of a vehicle that resulted in marijuana charges that are being dropped. But they made contact and arrested [Applicant]. At the time of his arrest, he had the keys for [redacted] Smith Street in his pocket.

Regarding the indictment 2015-5649, the one [Assistant Solicitor] was prepared to go to trial on that was a buy that occurred on February 11, 2015 when [Applicant] sold cocaine to a confidential informant working under the direction and control of Charleston Police Department narcotics in the area of Wesley Drive and

Savannah Highway in Charleston County. The C-I exchanged 160 dollars in prerecorded funds for 2.89 grams of cocaine from [Applicant]. And that transaction was audio video recorded and the C-I identified [Applicant] in a photo lineup.

Indictment number 2015-5651 corresponds to a buy that occurred on March 3, 2015, where [Applicant] sold cocaine to a C-I who was working for Charleston narcotics in the area of King and Mary Street. This transaction the C-I exchanged 150 dollars for cocaine and that transaction was also audio recorded.

Indictment number 2015-5652 occurred on March 17, 2015, wherein [Applicant] sold cocaine to a C-I working for Charleston Police Department narcotics in the area of King and Mary Street. That was 400 in prerecorded funds for a quantity of cocaine later determined to be 13.89 grams. That transaction was also recorded.

The remaining three indictments 5655, 5656, 5657 were as a result of a search warrant that was done on May 14, 2015. It was executed at [redacted] Delta Street, Apartment [redacted] in North Charleston. [Applicant] was located sleeping in the residence with four firearms; three of which previously had been reported stolen. Also located there were three cell phones. During a Post-Miranda interview with detectives [Applicant] acknowledged that the guns were stolen. He also acknowledged those three cell phones were his and proceeded to give the phone numbers corresponding to them, which corresponded to the phone numbers that were used during the controlled buy that was previously mentioned. Additionally, the truck that [Applicant] had used for the buy [Assistant Solicitor] was going to try from February 11th was registered to his girlfriend at that address.

(Tr. 36-9). At the plea hearing, Applicant confirmed the above-mentioned facts were accurate.

(Tr. 39).

III. SUMMARY OF THE TESTIMONY PRESENTED AT EVIDENTIARY HEARING

Applicant

Applicant testified on his own behalf at the evidentiary hearing. Specifically, he testified drugs were found in his friend's house for a January 2014 charge. Applicant testified he was not

present when these drugs were found. Thereafter, Applicant was arrested and charged with trafficking. At that point, Applicant then testified Lucas hired Stavrinakis.

Applicant testified he told Stavrinakis he did not put any drugs in his friend's house. Applicant testified he told Stavrinakis he wanted to go to trial. Applicant also testified Murray wrote a statement saying she never saw him with drugs and he did not put any drugs in the house. Applicant testified Murray had this statement notarized before giving it to Stavrinakis. Thereafter, Applicant testified Murray wrote another statement before giving to the Ninth Circuit Solicitor's Office.

Applicant testified he was arrested again in 2015 based upon cocaine trafficking charges. Applicant testified he attempted to hire Stavrinakis to represent based upon these charges. However, Stavrinakis stated the fee would be eleven thousand dollars. Therefore, Applicant testified he contacted another attorney. As a result, Applicant testified he had two different lawyers representing him at one time.

Applicant testified he was offered a plea of eighteen years for all charges. However, Applicant turned it down. Applicant testified he was willing to accept the distribution charge but not the trafficking charge. Applicant testified his desire was to get the trafficking charge dissolved or go to trial. Applicant testified one of his lawyers said the Assistant Solicitor was not going to trial on the trafficking charge because she did not have enough evidence so she wanted to hold it as leverage.

Applicant testified he then filed for a speedy trial on his own. Applicant testified the motion hearing was scheduled for March of that year. Thereafter, Stavrinakis came to see him to discuss the speedy trial motion filing. Applicant testified Stavrinakis notified him the motion hearing was cancelled because Applicant needed to be evaluated. Applicant testified he went to

be evaluated sometime in July of that year. Thereafter, Applicant testified he was found to be competent.

Later on, Applicant testified he wrote a letter to the Office of Disciplinary Counsel (ODC) mapping out his complaints with Stavrinakis. Thereafter, Applicant testified ODC gave Stavrinakis notice, who then file for a motion of dismissal. Applicant then testified ODC ruled it could not find anything wrong with Stavrinakis' representation.

Subsequently, Applicant testified he met Cochran on the day of his bond hearing. Applicant testified Stavrinakis and Cochran were present at the bond hearing. Thereafter, Applicant testified the Judge set a fifty million dollar bond before setting the case for trial. Applicant testified Cochran agreed with the Solicitor he would be prepared for the case in time for a February 2017 trial. Applicant testified he met with Cochran in jail sometime after the bond hearing.

Applicant testified he met with Cochran to review discovery at some point before trial. At this meeting, Cochran showed Applicant the video evidence from distribution charges. Applicant testified the video showed a confidential informant talking to him and his co-defendant. Applicant testified there were no drugs in this video. Applicant further testified his co-defendant dealt with the confidential informant throughout the video. Applicant further testified they met a number of times before trial.

Applicant testified he appeared at a pretrial hearing with Cochran to decide whether the entire video would be played. Applicant testified Stavrinakis did not show up at this hearing. Applicant further testified he told the court he wanted a continuance to find a different attorney. At that point, the court notified him his options were to either represent himself or proceed with Cochran. Applicant testified he felt pressured by the court to plead guilty. Applicant also testified

he believed Cochran was not prepared to move forward with trial. Applicant testified there were no charges dropped pursuant to his plea deal.

Applicant testified he believed Cochran was ineffective because they did not meet before trial. Applicant testified he believed Cochran was ineffective because they could not secure a continuance. Applicant testified he believed Cochran was ineffective for failing to investigate the co-defendant. However, Applicant acknowledged he was aware Cochran interviewed the co-defendant as well as got a statement.

Applicant testified he believed Stavrinakis was ineffective based upon allowing the Assistant Solicitor to hold charges as leverage.

Applicant testified he did accept the twenty five year deal instead of going to trial. He further testified he was aware, at the time, of being exposed to life without parole at trial. Applicant testified he did not consider LWOP in taking the plea deal. Instead, Applicant testified he was afraid to go to trial with an unprepared attorney.

Lucas

Lucas testified on behalf of Applicant at the evidentiary hearing. Specifically, Lucas testified she gave a witness statement to Stavrinakis on behalf of Murray. Lucas further testified she did not see Stavrinakis on the day Applicant pled. Thereafter, Lucas testified she engaged in plea discussions with Cochran and Applicant on all the charges. Lucas then testified this was not abnormal since she had been helping Applicant since his initial charge. Finally, Lucas testified she advised Applicant the decision to plea was his alone.

Murray

Murray testified on behalf of Applicant at the evidentiary hearing. Murray testified she took her statement to Stavrinakis' office, and put it in his mailbox. Applicant testified the mailbox is where Stavrinakis directed her to place a statement. Murray testified the statement she dropped off with Stavrinakis was her complete testimony on the issue. Murray testified she still believed Applicant could have been at the house searched multiple times without her present.

Stavrinakis

Stavrinakis testified on behalf of Respondent at the evidentiary hearing. Eighty percent of his legal practice is criminal defense. Further, Stavrinakis testified he has predominantly practiced in criminal law since graduating law school in 1992.

Stavrinakis testified Applicant retained him on the trafficking charge as well as a couple of others. Stavrinakis did not handle the attempted murder charge. Initially, Stavrinakis actually got him a bond hearing. At that hearing, he successfully got Applicant out on bond. Thereafter, the two individuals had numerous discussions about the trafficking charge. Moreover, they held discussions about the other charges.

Stavrinakis testified Applicant wanted probation. He advised Applicant to prepare for a long ride if this was his desired endgame. Stavrinakis further advised Applicant he could negotiate plea offers for a substantial amount or all of the pending charges. He also notified Applicant going to trial on all the pending charges would be a daunting task, considering the amount.

Stavrinakis testified Murray gave him a statement in August of 2016. In September 2016, Murray gave him a second statement. Stavrinakis testified this second statement was favorable, but not the golden ticket to getting charges dismissed. He testified to refusing to tell Applicant this statement would end the case. Stavrinakis testified he was not surprised when the charges

were, in fact, not dismissed. However, Applicant was not pleased and rejected the first plea offer. Subsequently, Applicant was served with notice of life without parole.

Thereafter, another offer was extended to Applicant. Stavrinakis testified he sat down with Applicant and Lucas to discuss this offer. At the meeting, Applicant requested and received new copies of the documents in discovery. Thereafter, Applicant notified the court he was not happy with Stavrinakis or the quality of plea offers previously extended. Applicant further demanded Stavrinakis be relieved from the case. On September 23, 2016, Applicant rejected a plea offer for fifteen years on seven charges on the record. At that hearing, Applicant notified the court he wanted Stavrinakis removed from the case.

That same day, the Assistant Solicitor then indicated the charges with video evidence would be tried first. They scheduled court for February 2017. Stavrinakis notified them he did not have any cases with video evidence. He also notified them of his protection during that time period based upon being a state legislature.

Stavrinakis testified he received a letter from Applicant detailing the desire to remove him as counsel. It was dated for September 27, 2016. Stavrinakis further discussed being removed with Lucas. Stavrinakis believed he was fired. Furthermore, nobody requested his presence at the February 2017 pretrial hearing. Stavrinakis testified nobody meant the family, the court, nor Applicant requested his presence at the hearing. However, Cochran did notify him Applicant pled guilty immediately after it happened.

Overall, Stavrinakis believed he was fired twice by Applicant. First, the court verbally ordered his removal from the case at the hearing on September 23, 2016. Second, the letter he received a couple of days later from Applicant formalized the termination. Applicant was simply

just not satisfied with his inability to get the charges dismissed. Applicant never contacted him after sending the letter of termination.

Cochran

Cochran testified on behalf of Respondent at the evidentiary hearing. Cochran has solely focused on criminal defense in all ten years of practicing law. Currently, Cochran is a federal public defender. At the time, Cochran was an Assistant Public Defender for Ninth Circuit in South Carolina.

Cochran testified he was assigned Applicant's case before a bond hearing. Cochran testified he arrived in a meeting between Stavrinakis, the Assistant Solicitor, and the court before the hearing. He was briefed on the history of this case and assigned to handle Applicant's case at trial. At the hearing, the court set Applicant's bond at an unusually high amount. The Court informed him Applicant's case was set for a date certain. Cochran recalled getting the evidence immediately after being assigned the case.

Thereafter, Cochran put the case on his front-burner. Cochran reviewed discovery with Applicant as well as Lucas. Cochran testified they operated as if Cochran represented him on all charges. Applicant requested a continuance. Cochran sympathized based upon not having the case for long before it was set for trial. Cochran testified Applicant never mentioned the need to discuss anything with Stavrinakis. Cochran testified Applicant never objected to him engaging in negotiations on all the charges. Cochran testified Applicant and Lucas openly engaged in discussions with him about pleading to all charges. Cochran testified there were options on the table for Applicant to plead to some charges.

On the day of the plea, Cochran engaged in ongoing discussions with Applicant and Lucas. Cochran testified nobody requested Stavrinakis to be present. Cochran testified he notified

Applicant the plea offers were getting progressively worse. The current offer had been twenty five while the original was fifteen. The continuance was denied. Cochran testified he advised Applicant the options were to proceed pro se, proceed with Cochran, or plead guilty.

Cochran testified they took a universal approach to pleading to the charges. He testified nobody raised an issue about the trafficking charge being included in the deal. Therefore, Cochran testified he did not feel like he was doing anything wrong. Cochran testified he notified Applicant about LWOP exposure. Thereafter, Cochran testified the twenty five year plea included dismissing all charges not named in the deal. Cochran recalled Applicant begging Lucas to accept the plea agreement. After that, everyone agreed pleading guilty was the right thing to do.

Cochran testified he only asked for a continuance at the request of Applicant. Cochran testified this trial was based upon video evidence. Therefore, it did not take long to prepare for. Cochran testified he would have been ready to try the case if it got to that point. He spoke with Stavrinakis either immediate before or after the plea hearing as a courtesy. Cochran testified he believed Stavrinakis had been terminated as counsel during his entire time representing Applicant.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented.

A. Ineffective Assistance of Counsel

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR 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 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 v. Washington, 466 U.S. 668, 686 (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. First, Applicant must prove that counsel’s performance was deficient. Strickland, 466 U.S. at 686; 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). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing Strickland, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. Cullen v. Pinholster, 563 U.S. 170, 196 (2011); Harrington v. Richter, 562 U.S. 86, 109-10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” Yarborough at 6; see also Murphy v. Davis, 901 F.3d 578,

592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”). 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 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. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” United States v. Basham, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting Elmore v. Ozmint, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he/she would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant’s right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977) (“Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.”). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975)).

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. Strickland, 466 U.S. at 696. 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. *Id.* at 696-97.

1. Failure to File Motion for Speedy Trial (Stavrinakis)

Applicant contends Counsel was deficient based upon the failure to file a motion for a speedy trial on the trafficking charge after being told to do so. 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). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough v. Gentry*, 540 U.S. at 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. at 196; *Harrington v. Richter*, 562 U.S. at 109-10.

Here, Respondent contends Stavrinakis decided to engage in plea negotiations instead of file the motion. Stavrinakis credibly testified Applicant was released after the initial charges. Thereafter, Stavrinakis credibly testified Applicant did not mention the desire to go to trial until after he was arrested on subsequent charges. Thereafter, Counsel credibly testified Applicant began insisting upon filing a motion for a speedy trial. Stavrinakis credibly testified he advised Applicant the Assistant Solicitor customarily had a wide amount of discretion on what charge to take to trial first. Stavrinakis also credibly testified he advised Applicant they should negotiated a plea offer based upon the amount of charges. However, Stavrinakis credibly testified Applicant

was not satisfied with the quality of plea offer then rejected one for fifteen years. Thereafter, it is undisputed Applicant moved to remove Stavrinakis as his lawyer based upon tactical disagreements. Accordingly, the record reflects Stavrinakis negotiated a plea offer for ten years less than Applicant eventually accepted. Therefore, this Court finds Stavrinakis exercised reasonable professional judgment in advocating Applicant accept a favorable plea offer instead of moving forward with a speedy trial motion.

Additionally, Respondent contends Stavrinakis' could not file this motion after Applicant formally rejected the plea offer. Here, Stavrinakis credibly testified the court relieved him of representation on the day Applicant formally rejected a plea offer. Stavrinakis credibly testified he was present when trial was set for a particular date. Stavrinakis credibly testified he notified Cochran, the court, and the Assistant Solicitor he would not attend that trial based upon state legislative obligations. Stavrinakis credibly testified he had already given the court notice of protection based upon state legislative obligations. Thereafter, Stavrinakis credibly testified Applicant acknowledged Stavrinakis' his in a subsequent handwritten letter.¹ Thereafter, it is undisputed Stavrinakis did not participate in the case any further. Cochran also credibly testified he believed Stavrinakis was fired. Cochran further credibly testified Applicant allowed him to take a universal approach in negotiating the plea deal.² Therefore, this Court finds the credibly evidence indicates Stavrinakis was in no position to file a motion after he was relieved from representing Applicant. This relief was acknowledged by Applicant, who then willingly allowed Cochran to negotiate a deal for all charges. Thus, this Court further finds Stavrinakis exercised reasonable professional judgement in not filing a motion after termination because he had not duty.

¹ This letter was admitted into evidence.

² Cochran credibly elaborated "universal approach" meant Applicant did not object to the plea negotiations including all charges.

As a result, this Court further finds Applicant has failed to overcome the burden to prove Stavrinakis was deficient in failing to motion for a speedy trial.

Applicant contends he would have been granted this motion, and would have went to trial on the trafficking charges instead of pleading guilty. The right of a speedy trial is necessarily relative. It is consistent with delays and depends upon circumstances. Beavers v. Haubert, 198 U.S. 77, 87, 25 S. Ct. 573, 576, 49 L. Ed. 950 (1905). An accused's speedy trial right begins when he is indicted, arrested, or otherwise officially accused. State v. Hunsberger, 418 S.C. 335, 343, 794 S.E.2d 368, 372 (2016). Presumptively prejudicial delay exists when an accused is not prosecuted with ordinary promptness. Id. The South Carolina Supreme Court held three years is enough to meet the threshold requirement for a speedy trial claim. Id., 418 S.C. at 343, 794 S.E.2d at 373. Once the accused has met this initial burden, a court must look to four factors, among the totality of the circumstances, to decide whether the defendant's right to a speedy trial has been denied. Id. These factors are: (1) length of delay; (2) the reason for the delay; (3) the accused's assertion of his right to a speedy trial; and (4) whether the delay prejudiced the accused. Id. A speedy trial claim must be "analyzed in terms of the circumstances of each case, balancing the conduct of the prosecution and the defense." Id.

Ordinary Promptness

Here, Applicant contends he was prejudiced based upon the trafficking charge never being scheduled for trial. The United States Supreme Court held the length of time necessary to trigger a full inquiry is "dependent upon the peculiar circumstances of the case." Barker v. Wingo, 407 U.S. 514, 530-1 (1972). Thus, a simple prosecution for ordinary street crime may have a lower threshold for a presumptively prejudicial delay than a more complex conspiracy case. State v. Langford, 400 S.C. 421, 442, 735 S.E.2d 471, 482 (2012). The clock starts running on a

defendant's speedy trial right when he is "indicted, arrested, or otherwise officially accused." U.S. v. MacDonald, 456 U.S. 1, 6 (1982).

Here, Applicant was arrested for trafficking cocaine in January 2014. Applicant was indicted in July 2014. He then pled guilty in February 2017. Therefore, speedy trial clock lasted over three years. The factual circumstances were somewhat complicated because Applicant was not listed as a resident where the cocaine was recovered. However, the record reflects all material evidence was collected on the date of his arrest. (Tr. 36). Thus, this Court finds the length of time was sufficiently prejudicial to trigger an inquiry.

Reason for Delay

Applicant contends the Assistant Solicitor delayed his trial for the trafficking charge to improperly use it as leverage. A deliberate attempt by the State to delay the trial as a means of impairing the accused's ability to defend himself "should be weighted heavily against the government." Barker v. Wingo, 407 U.S. at 531. Neutral reasons, which could include overcrowded dockets or negligence, are "weighted less heavily" but still count against the State because it bears the ultimate responsibility for these circumstances. Id. A delay caused by the accused will weigh against. Vermont v. Brillon, 556 U.S. 81, 89 (2009). This is not only in accord with the reality that delay may be a defense tactic, but it is also a recognition that a defendant should not be able to procure a dismissal of the charges against him due to delays he caused. Id. Furthermore, a deliberate attempt by the defendant to disrupt proceedings will be "weighted heavily" against him. Id., 556 U.S. at 93.

Here, Stavrinakis engaged in plea negotiations on the trafficking charge until his termination. On August 22, 2016, Applicant was served with notice of life without parole on different charges. (Tr. 7). However, Applicant's attorney on those charges retired so he was

afforded more time to negotiate a plea or find representation on certain charges for trial. (Tr. 7). On September 23, 2016, Applicant formally rejected a plea offer containing the trafficking charge. That same day, Applicant terminated Stavrinakis. Further, Cochran was appointed to be his trial attorney. On or about November 11, 2016, Cochran was given notice Applicant would be tried on different charges in February 2017. (Tr. 7). A conviction on those charges at trial would have resulted in life without parole. As a result, there was no point to schedule additional charges for trial. This Court finds the State did not deliberately or negligently attempt to delay a trial on trafficking charges.

The issue now becomes whether Applicant engaged in conduct to delay legal proceedings. At the pretrial hearing, Applicant requested a motion for continuance to locate a witness. (Tr. 7). This request was denied. Thereafter, Applicant attempted to terminate Cochran. (Tr. 10). He then requested additional time to represent himself at trial. (Tr. 12). Applicant then requested a continuance to get a mental evaluation. (Tr. 16). The court declined to grant a continuance for these reasons. The court noted Applicant had been trying to delay the process. (Tr. 19-20). Thereafter, Applicant pled guilty to numerous charges including trafficking cocaine. (Tr. 27-8). Accordingly, this trial had to go forward before a potential trafficking charge would be put on the docket. Therefore, this Court finds Applicant deliberately attempted to delay the process which weighs heavily against him.

Assertion of Right to Speedy Trial

Applicant contends he asserted his right to a speedy trial before Stavrinakis canceled it to have him mentally evaluated. Applicant testified he filed the motion for a speedy trial on his trafficking charge himself. Thereafter, Applicant testified Stavrinakis revoked the motion and immediately had him mentally evaluated. On the other hand, Stavrinakis credibly testified he did

not file this motion in an attempt to continue plea negotiations. Stavrinakis further credibly testified he advised Applicant of his opinion on filing the motion when choosing not to file it.

Accordingly, there is no evidence in the record Applicant filed a motion for a speedy trial. It is undisputed difference of opinion based upon the trafficking charge led to Stavrinakis' termination. However, that was partly because Applicant wanted a better plea offer. Further, at the plea hearing, Applicant waived his right to trial on this charge. (Tr. 32-3). Therefore, this Court finds no credible evidence indicates Applicant asserted his right to a speedy trial.

Prejudice Suffered as a Result of Delay

Applicant contends he suffered prejudice when the trafficking charge was not tried or dismissed before other charges. At the plea hearing, Applicant confirmed he was aware of his exposure to mandatory life without parole on the charges almost tried. (Tr. 31). Instead, Applicant pled guilty to numerous charges for a sentence of twenty five years. Additionally, numerous charges were dropped as a result of the plea agreement. (Tr. 30). Applicant has failed to provide any reason to believe his situation would be more favorable if the trafficking charge gone to trial. Therefore, this Court finds he was not prejudiced in any delay of the trial.

Accordingly, this Court finds the factors weigh heavily in favor of Respondent based primarily upon Applicant's significant role in delaying trial. Therefore, this Court finds Applicant has failed to overcome the burden to prove he would have been successful when bringing a speedy trial motion.

2. Failure to Communicate (Cochran)

Applicant contends Counsel failed to adequately and timely communicate the trial strategy. An appropriate inquiry in Sixth Amendment case focuses upon the adversarial process, not on the accused's relationship with counsel; if counsel is a reasonably effective advocate, he meets his

constitutional standards irrespective of his client's evaluation of his performance. U.S. v. Cronin, 466 U.S. 648, 656 (1984).

At a pretrial hearing, Applicant told the court he discussed the strategy of playing an entire tape at trial with Cochran. (Tr. 4). Thereafter, Cochran affirmed they had discussed this strategy. (Tr. 5-6). Cochran also told the court he was comfortable with this strategical decision. (Tr. 6). Thereafter, Cochran notified the court Applicant wanted to request a continuance. (Tr. 7). Applicant requested additional time to allow an organization he had hired a week before to investigate the case. (Tr. 6). Further, Applicant wanted time to locate a witness with potential information about material telephones. (Tr. 6, 8). The court declined this continuance based upon the potential witness being irrelevant. (Tr. 9). The court also reasoned the case was not complicated enough to merit additional time because it was based on a drug purchase everything on video. (Tr. 9). Applicant then requested to relieve Cochran after the court denied the motion for a continuance. (Tr. 10). He claimed they had a bad argument prior in the holding cell. (Tr. 11). He also requested additional time to be able to prepare to represent himself at trial. (Tr. 12). The court declined this request. (Tr. 12). Applicant then said he had not agreed on a strategy with his attorney. (Tr. 15). He pointed out the situation was severe based upon being subject to life without parole. (Tr. 16). The Court again declined to grant a continuance on this basis. (Tr. 16). Applicant then requested to be evaluated before proceeding any further. (Tr. 16). The court found there was no basis to order an evaluation. (Tr. 17, 19). The court then noted Applicant had been trying to delay the process. (Tr. 19-20). Thereafter, Cochran notified the court Applicant wanted to accept a previously rejected plea offer. (Tr. 20).

Accordingly, the issue is whether Cochran was reasonably effective advocate in this adversarial process. The record reflects both parties knew Cochran's trial strategy before pretrial

hearings. Cochran credibly testified he believed this was the best strategy based upon handling previous trials involving video evidence. At pretrial hearings, Cochran moved to play the entire tape at trial based upon that strategy. The record indicates Applicant was potentially dissatisfied with this strategy after an argument in the holding cell. Therefore, Cochran moved for a continuance. However, the trial court denied delaying trial. Thereafter, the record reflects Applicant gave several inconsistent reasons for delaying trials. Cochran credibly testified he then advised Applicant the options were to proceed to trial pro se, with counsel, or plead guilty. Cochran then credibly testified Applicant decided to plead guilty. Accordingly, there was nothing unusual about Cochran's approach in this adversarial process. He prepared a sufficient trial strategy, made appropriate motions, and then gave Applicant accurate options on how to proceed. Therefore, this Court finds Cochran was reasonably effective in this adversarial process. Applicant has failed to overcome the burden to prove Cochran was deficient in failing to communicate a trial strategy in a timely manner.

Applicant contends he was forced to plea because Counsel had not prepared an adequate strategy for trial. "The brevity of time spent in consultation with a defendant alone is not indicative of inadequate trial preparation." Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (Ct. App. 2012) (citing Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008)). An applicant must present evidence to show how additional time spent in consultation would have resulted in a different outcome; mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 404 S.C. at 500-01, 745 S.E.2d at 382 (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998); Skeen v. State, 325 S.C. 210, 214-15, 481 S.E.2d 129, 132 (1997)).

Here, Applicant testified they needed a continuance because Counsel had not developed an adequate trial strategy before pretrial motions. This is inconsistent with his reason for originally requesting a continuance. Applicant also claimed to have a potential witness. He claimed to have an organization investigating the case on his behalf. Applicant claimed he wanted to fire Cochran to look for an adequate attorney. He then claimed to need time to prepare to represent himself at trial. Applicant then claimed he needed time to actually agree upon a strategy with Cochran. He followed that up with the need for time to be mentally evaluated. The court denied all requests, and called him out for attempting to delay the process. Thereafter, Applicant wanted to enter a plea. The circumstances suggest he simply did not want to go to trial. Therefore, this Court finds Applicant has not produced credible testimony as to why they needed additional time to prepare for trial.

Additionally, Applicant contends Cochran did not have enough time to prepare for trial. However, Cochran credibly testified the evidence in this case was based upon a video. Counsel credibly testified it does not customarily take very long to prepare for a trial where the evidence is largely based upon a video. Counsel further credibly testified he reviewed all evidence and developed a trial strategy based upon the video before pretrial hearings. Moreover, it is undisputed Cochran reviewed this video evidence with Applicant in preparation for trial. Also, Counsel credibly testified he believed showing the entire video was the best possible strategy for Applicant's trial. Finally, Counsel credibly reasoned he would not have changed his strategy with more time to prepare. Accordingly, this Court finds Counsel locked down a trial strategy and intended to stick with it. Therefore, this Court finds Applicant has failed to establish how additional preparation would have impacted the trial strategy.

Accordingly, Applicant has failed to overcome the burden to prove he suffered prejudice based upon a failure to have more time to talk to Cochran about their trial strategy.

3. Failure to Secure a Continuance (Cochran)

Applicant contends Cochran was deficient based upon failing to secure a continuance on the day he pled guilty. The denial of a motion for a continuance is within the sound discretion of the trial judge and his or her ruling will not be disturbed on appeal absent an abuse of discretion resulting in prejudice to the appellant. Bozeman v. State, 307 S.C. 172, 175, 414 S.E.2d 144, 146 (1992) (finding no reversible error where applicant could not point to any evidence or witnesses which could have been produced if the continuance had been granted).

Here, the record reflects Cochran moved for a continuance. (Tr. 7). Moreover, Cochran based the continuance on a permissible reason in needing to talk to a material witness. (Tr. 8). The court denied this motion based upon not believing the witness to be material to Applicant's case. (Tr. 9). Thereafter, Cochran accepted the decision as final. (Tr. 10). Accordingly, Cochran attempted to get the case continued for a permissible reason. The court decided to deny this motion. Cochran accepted the decision. This is proper because the denial could not be disturbed until the appellate stage. Accordingly, this Court finds Cochran did not deviate from reasonable professional standards in his attempt to continue the case. Therefore, Applicant has failed to provide any evidence to overcome the burden to prove Cochran was deficient for not securing the requested continuance.

Applicant contends the failure to secure a continuance prejudiced his ability to find adequate representation. An applicant must show how additional preparation would have made a difference in the outcome to prove prejudice when counsel fails to move for the continuance. Skeen, 325 S.C. at 212, 481 S.E.2d at 131.

Here, Applicant testified he needed the continuance to find a different attorney. This is inconsistent with the record. Applicant originally requested the continuance for two reasons. Neither of them were to relieve Cochran. The request to relieve Cochran came only after the motion was denied. He did not specify a plan to replace Cochran. However, Applicant notified the court he could and would represent himself at trial. He then requested additional time to be mentally evaluated to stand for based upon having a second grade education. Cochran had been a criminal defense lawyer for eight years, and was prepared to go to trial with a strategy. Applicant has no legal education, and openly requested a mental evaluation in court. This Court finds it would not have been beneficial for Applicant to proceed representing himself even with additional time to prepare. Therefore, he has failed to overcome the burden to prove prejudice from not being afforded a continuance to find a different attorney.

4. Failure to Investigate Co-Defendant (Cochran)

Applicant contends Cochran deficiently failed to interview his co-defendant in preparation for trial. In reviewing a claim that defense counsel failed to properly investigate a defense to a crime, a court's principle concern is whether the investigation "was itself reasonable." Taylor v. State, 404 S.C. 350, 364, 745 S.E.2d 97, 104 (2013). However, Counsel is not deficient in conducting a reasonable investigation as long as they interview potential witnesses "when it is reasonable to do so." Edwards v. State, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011). Additionally, an applicant's statements during the plea hearing are considered "conclusive unless [he] presents valid reasons why he should be allowed to depart from the truth" of them. Dalton, 376 S.C. at 137, 654 S.E.2d at 874.

Here, Applicant testified Cochran did not adequately secure his co-defendant's testimony for trial. However, Applicant credibly acknowledged Cochran interviewed his co-defendant.

Applicant further credibly admitted he was aware Cochran got a statement from the co-defendant. Cochran credibly testified either he or his investigator entered the co-defendant before the plea hearing. Cochran further credibly testified this case would largely center on the video evidence. Therefore, he credibly testified the statement was either largely irrelevant or not favorable. At the plea hearing, Applicant notified the court he was satisfied with Cochran. (Tr. 29). Thereafter, Cochran notified the court he investigated all the charges Applicant pled guilty to. (Tr. 31). Accordingly, the credible testimony indicates the co-defendant was interviewed for Applicant's case. Further, the record indicates Applicant was satisfied with the investigation Cochran conducted. Finally, the witness interview was apparently superfluous because Cochran knew it revolved around the video. Therefore, Cochran conducted a reasonable investigation where he interviewed the witness, got a statement, and concluded the testimony would not benefit Applicant at trial. This Court further finds Applicant has failed to overcome the burden to prove Cochran was deficient based upon the failure to investigate his co-defendant.

Applicant contends his co-defendant would have exonerated him at trial. The prejudice prong is dependent upon whether counsel's deficiencies "affected the outcome of the plea process." Frierson v. State, 417 S.C. 287, 789 S.E.2d 762 (Ct. App. 2016), *aff'd as modified*, 423 S.C. 257, 815 S.E.2d 433 (2018). To establish it through witness corroboration an applicant "must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing." Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998). "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. SCRE 801. Mere "speculation" about the details of what a witness would testify about is insufficient to establish prejudice. Dalton v. State, 376 S.C. 130 at 143, 654 S.E.2d 870 at 877.

Here, Applicant did not produce any testimony from his co-defendant. However, Cochran credibly recalled the original witness statement was irrelevant and not favorable. At the plea hearing, Applicant affirmed he had sold cocaine to a confidential informant. (Tr. 37, 39). Accordingly, Applicant has not offered any admissible evidence to support this claim. Therefore, this Court finds Applicant is merely speculating his co-defendant would have provided testimony sufficient for exoneration. This Court further finds Applicant has failed to overcome the burden to prove he suffered prejudice based upon Cochran's failure to investigate his co-defendant.

IV. CONCLUSION

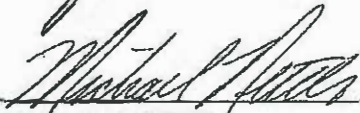
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must remain in the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 19 day of Sept, 2019.



MICHAEL G. NETTLES
Presiding Judge
Ninth Judicial Circuit


_____, South Carolina

JULIE J. ARMSTRONGCLERK OF COURT, C.P. & G.S.
100 BROAD STREET, SUITE 106
CHARLESTON, SC 29401-2258

RETURN SERVICE REQUESTED



clerkofcourt.charlestoncounty.org

16

JAMES P. CRAIG
2001 ASSEMBLY ST STE 201
COLUMBIA SC 29201-2153**NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC****Order of Dismissal****CASE NO: 2018CP1000599****Timothy Montez Wright VS South Carolina State of**

This judgment was entered on the 01th day of October, 2019, and notice mailed first class on Friday, October 04, 2019, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at <http://clerkofcourt.charlestoncounty.org> or obtain a copy in person at the Clerk of Court's Office during regular Charleston County business hours.

REC'D MONDAY OCT 7TH

AZR20140100173

WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1400094

ARREST WARRANT NUMBER

2014A1010200047

DATE OF ARREST

January 2, 2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

JUL 08 2014

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2014GS1003515

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

July Term 2014

THE STATE

vs.

TIM MONTEZ WRIGHT

DOB: [REDACTED]

B/M

Indictment for

Trafficking Cocaine

FILED

7/25/2014 3:50:39 PM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on July 7, 2014 the Grand Jurors of Charleston County present upon their oath:

Trafficking Cocaine

That in Charleston County, South Carolina, on or about January 2, 2014, the Defendant, TIM MONTEZ WRIGHT, unlawfully and knowingly did sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: Cocaine, in excess of 200 grams; in violation of 44-53-370 of the South Carolina Code of Laws (1976) as amended.

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



ALEXANDER J. ZIEGLER
ASSISTANT SOLICITOR

LBM/0305248
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-02316

ARREST WARRANT NUMBER

2015A1010202113

DATE OF ARREST

05/15/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: OCT 19 2015

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015-GS-10-05649

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

VS.

TIM MONTEZ WRIGHT
B/M DOB [REDACTED]

Indictment for

DISTRIBUTION OF COCAINE

SC Code: § 44-53-0370(b)(1)
CDR Code: 0185

FILED

10/28/2015 11:25:20 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

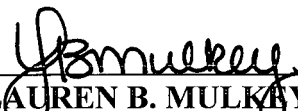
AMS

At a Court of General Sessions, convened on October 7, 2015, the Grand Jurors of Charleston County present upon their oath:

Distribution of Cocaine

The defendant, Tim Montez Wright, did on or about February 11, 2015, in Charleston County, South Carolina, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase Cocaine, a schedule II controlled substance narcotic. All in violation of 44-53-0370(b)(1) of the South Carolina Code of Laws (1976) as amended.

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


LAUREN B. MULKEY
ASSISTANT SOLICITOR

LBM/0305249
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-04332

ARREST WARRANT NUMBER

2015A1010202115

DATE OF ARREST

05/15/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: OCT 19 2015

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015-GS-10-05652

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

VS.

TIM MONTEZ WRIGHT
B/M DOB [REDACTED]

Indictment for

TRAFFICKING IN CRACK COCAINE

SC Code: § 44-53-0375(C)(1)(c)
CDR Code: 0452

FILED

10/28/2015 11:25:20 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

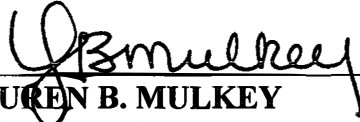
16 m3

At a Court of General Sessions, convened on October 9, 2015, the Grand Jurors of Charleston County present upon their oath:

Trafficking in Crack Cocaine

The defendant, Tim Montez Wright, did on or about March 17, 2015, in Charleston County, South Carolina, knowingly sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of ten (10) grams or more of Crack Cocaine, a cocaine base, as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1); or 44-53-210(d)(2). All in violation of 44-53-0375(C)(1)(c) of the South Carolina Code of Laws (1976) as amended.

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


LAUREN B. MULKEY
ASSISTANT SOLICITOR

LBM/0304806
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2015-015165

ARREST WARRANT NUMBER

2015A1010202149

DATE OF ARREST

05/15/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 20 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-05655

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

VS.

TIM MONTEZ WRIGHT
B/M DOB [REDACTED]

Indictment for

POSSESSION OF A STOLEN HANDGUN

SC Code: § 16-23-0030

CDR Code: 2364

FILED

10/28/2015 11:25:21 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

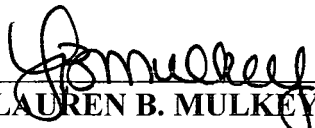
INDICTMENT

At a Court of General Sessions, convened on October 20th, 2015, the Grand Jurors of Charleston County present upon their oath:

Possession of a Stolen Handgun

The defendant, Tim Montez Wright, did on or about May 14, 2015, in Charleston County, South Carolina, unlawfully possess or acquire a handgun which had been stolen. All in violation of 16-23-0030 of the South Carolina Code of Laws (1976) as amended.

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


LAUREN B. MULKEY
ASSISTANT SOLICITOR

LBM/0304806
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2015-015165

ARREST WARRANT NUMBER

2015A1010202150

DATE OF ARREST

05/15/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

OCT 20 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-05656

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

VS.

TIM MONTEZ WRIGHT

B/M DOB [REDACTED]

Indictment for

POSSESSION OF A STOLEN HANDGUN

SC Code: § 16-23-0030

CDR Code: 2364

FILED

10/28/2015 11:25:21 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened on October 6, 2015, the Grand Jurors of Charleston County present upon their oath:

Possession of a Stolen Handgun

The defendant, Tim Montez Wright, did on or about May 14, 2015, in Charleston County, South Carolina, unlawfully possess or acquire a handgun which had been stolen. All in violation of 16-23-0030 of the South Carolina Code of Laws (1976) as amended.

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



LAUREN B. MULKEY
ASSISTANT SOLICITOR

LBM/0304806
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2015-015165

ARREST WARRANT NUMBER

2015A1010202151

DATE OF ARREST

05/15/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury OCT 20 2015
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015-GS-10-05657

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

VS.

TIM MONTEZ WRIGHT
B/M DOB [REDACTED]

Indictment for

POSSESSION OF A STOLEN HANDGUN

SC Code: § 16-23-0030
CDR Code: 2364

FILED

10/28/2015 11:25:21 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

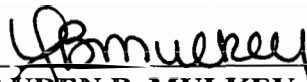
INDICTMENT

At a Court of General Sessions, convened on October 9, 2015, the Grand Jurors of Charleston County present upon their oath:

Possession of a Stolen Handgun

The defendant, Tim Montez Wright, did on or about May 14, 2015, in Charleston County, South Carolina, unlawfully possess or acquire a handgun which had been stolen. All in violation of 16-23-0030 of the South Carolina Code of Laws (1976) as amended.

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


LAUREN B. MULKEY
ASSISTANT SOLICITOR

LBM/0305454
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-03429

ARREST WARRANT NUMBER

2015A1010900341

DATE OF ARREST

05/19/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: OCT 19 2015

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015-GS-10-05651

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

VS.

TIM MONTEZ WRIGHT
B/M DOB [REDACTED]

Indictment for

DISTRIBUTION OF COCAINE

SC Code: § 44-53-0370(b)(1)
CDR Code: 0185

FILED

10/28/2015 11:25:20 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

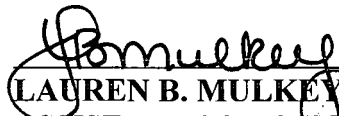
INDICTMENT

At a Court of General Sessions, convened on October 14th, 2015, the Grand Jurors of Charleston County present upon their oath:

Distribution of Cocaine

The defendant, Tim Montez Wright, did on or about March 3, 2015, in Charleston County, South Carolina, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase Cocaine, a schedule II controlled substance narcotic. All in violation of 44-53-0370(b)(1) of the South Carolina Code of Laws (1976) as amended.

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


LAUREN B. MULKEY
ASSISTANT SOLICITOR

COUNTY OF CHARLESTON

STATE VS.

TIMOTHY MONTEZ WRIGHT

AKA: Tim Montez Wright, Timothy Montez Wright

Race: Black/African American

Sex: M

DOB: [REDACTED] SS#: [REDACTED]

Address: Fort Johnson Road

City, State, Zip: Charleston, SC 29412-8814

DL# [REDACTED] SID# SC01462259

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

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

☐ CONVICTED OF or☒ PLEADS

TO: Traff Cocaine 10g but <28g 2nd

In violation of § 44-53-0370(e)(2)(a)2 of the S.C. Code of Laws, bearing CDR Code # 0387

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

The charge is:

☐ As indicted,☒ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☒ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Laurer M. Frierson, Assistant Solicitor 77023 SC Bar #

Tim Wright 25 yrs Defendant

[Signature] 65307 Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 640 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____ \$ _____

Substance Abuse Counseling ☐

§14-1-206 (Assessments 107.5%) \$ _____

Random Drug/Alcohol Testing ☐

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____

Other: _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCA Surcharge) \$5 \$ _____

3% to County (if paid in installments) \$ \$ 8.25

TOTAL \$ 283.25

☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/Deputy Clerk: [Signature]

Presiding Judge: [Signature]

Court Reporter: [Signature]

Judge Code: 20600

Sentence Date: 2/6/17

STATE VS.

TIMOTHY MONTEZ WRIGHT

AKA: Tim Montez Wright, Timothy Montez Wright

Race: Black/African American

Sex: M

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Fort Johnson Road

City, State, Zip: Charleston, SC 29412-8814

DL# [REDACTED] SID# SC01462259

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

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

☐ CONVICTED OF or☒ PLEADSTO: **Traff Cocaine 10g but <28g 2nd**

In violation of § 44-53-0370(e)(2)(a)2 of the S.C. Code of Laws, bearing CDR Code # 0387

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

The charge is:

☐ As indicted,☒ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☒ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Lauren M. Pierson, Assistant Solicitor SC Bar # 77023

Tim Wright 25 yrs Defendant

Attorney for Defendant 73866 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 640 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____ \$ _____

Substance Abuse Counseling ☐

§14-1-206 (Assessments 107.5%) \$ _____

Random Drug/Alcohol Testing ☐§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____

Other: _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ _____

3% to County (if paid in installments) \$ 8.25TOTAL \$ 283.25

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

Clerk of Court/Deputy Clerk: Jan M. PiersonPresiding Judge: R. M. [Signature]Court Reporter: Jan M. PiersonJudge Code: 2060Sentence Date: 2/11/17

COUNTY OF CHARLESTON

STATE VS.

TIMOTHY MONTEZ WRIGHT

AKA: Tim Montez Wright, Timothy Montez Wright

Race: Black/African American

Sex: M

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Fort Johnson Road

City, State, Zip: Charleston, SC 29412-8814

DL# [REDACTED] SID# SC014622.59

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

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

☐ CONVICTED OF or☒ PLEADSTO: Dist. Cocaine 3rdIn violation of § 44-53-0370(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0185☒ NON-VIOLENT☐ VIOLENT☒ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ § 17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

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

ATTEST:

Lauren M. Frierson, Assistant Solicitor 77023 SC Bar #

Tim Wright 25yrs Defendant

Attorney for Defendant 73866 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center**, for a determinate term of 25 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 640 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____ \$ _____

Substance Abuse Counseling ☐

§14-1-206 (Assessments 107.5%) \$ _____

Random Drug/Alcohol Testing ☐§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____

Other: _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

☐ Appointed PD or appointed other counsel,

Proviso 90.5 (SCCJA Surcharge) \$5 \$ _____

\$47.12 requires \$500 be paid to Clerk

3% to County (if paid in installments) \$ 8.25

during probation.

TOTAL \$ 283.25Clerk of Court/Deputy Clerk: Jan M. [Signature]Presiding Judge: [Signature]Court Reporter: Joyce [Signature]Judge Code: 2060Sentence Date: 2/6/17

STATE VS.

TIMOTHY MONTEZ WRIGHT

AKA: Tim Montez Wright, Timothy Montez Wright

Race: Black/African American

Sex: M

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Fort Johnson Road

City, State, Zip: Charleston, SC 29412-8814

DL# [REDACTED] SID# SC01462259

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

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

☐ CONVICTED OF or☒ PLEADSTO: **Poss. Stolen Firearm**

In violation of § 16-23-0030 of the S.C. Code of Laws, bearing CDR Code # 2364

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

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☒ Negotiated Sentence,☐ Recommendation by the State.

ATTEST

Lauren M. Frierson, Assistant Solicitor 77023 SC Bar #

Tim Wright 5yrs Defendant

Attorney for Defendant 73866 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center**,
for a determinate term of 5 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 640 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____

Substance Abuse Counseling ☐

§14-1-206 (Assessments 107.5%)

Random Drug/Alcohol Testing ☐

§14-1-211 (A)(1)(Conv. Surcharge) \$100

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100

pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12

\$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25

Other: _____

Proviso 47.9 (Public Def/Prob) \$500

§14-1-212 (Law Enforce. Funding) \$25

§14-1-213 (Drug Court Surcharge) \$150

§50-21-114 (BUI Breath Test Fee) \$50

§56-5-2942(J) (Vehicle Assessment) \$40/ea

Proviso 90.5 (SCCJA Surcharge) \$5

3% to County (if paid in installments) \$

TOTAL

Clerk of Court/Deputy Clerk: Lauren FriersonCourt Reporter: Tanya RiegerPresiding Judge: [Signature]Judge Code: 2000Sentence Date: 2/10/17

COUNTY OF CHARLESTON

STATE VS.

TIMOTHY MONTEZ WRIGHT

AKA: Tim Montez Wright, Timothy Montez Wright

Race: Black/African American

Sex: M

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Fort Johnson Road

City, State, Zip: Charleston, SC 29412-8814

DL# [REDACTED] SID# SC01462259

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

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

☐ CONVICTED OF or☒ PLEADSTO: **Poss. Stolen Firearm**

In violation of § 16-23-0030 of the S.C. Code of Laws, bearing CDR Code # 2364

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

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☒ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Lauren M. Frierson, Assistant Solicitor 77023 SC Bar #

Defendant TIM WRIGHT 5 yrs

Attorney for Defendant 73866 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ **State Department of Corrections** ☐ **County Detention Center**, for a determinate term of 5 days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 640 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§50-21-114 (DUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ _____

3% to County (if paid in instal lments) \$ \$ 3.75**TOTAL** \$ 128.75☐ Appointed PD or appointed other counsel ,

\$47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/ Deputy Clerk: [Signature]Court Reporter: [Signature]Presiding Judge: [Signature]Judge Code: 2000Sentence Date: 2/6/17

STATE VS.

TIMOTHY MONTEZ WRIGHT

AKA: Tim Montez Wright, Timothy Montez Wright

Race: Black/African American

Sex: M

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Fort Johnson Road

City, State, Zip: Charleston, SC 29412-8814

DL# [REDACTED] SID# SC014622.59

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

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

☐ CONVICTED OF or☒ PLEADSTO: **Poss. Stolen Firearm**

In violation of § 16-23-0030 of the S.C. Code of Laws, bearing CDR Code # 2364

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

The charge is:

☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is:

☐ Without Negotiations or Recommendation,☒ Negotiated Sentence,☐ Recommendation by the State.

ATTEST

Lauren M. Frierson, Assistant Solicitor 77023 SC Bar #

Defendant Timothy Montez Wright, 5yrs

Attorney for Defendant [Signature] 73866 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 640 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____ \$ _____

Substance Abuse Counseling ☐

§14-1-206 (Assessments 107.5%) \$ _____

Random Drug/Alcohol Testing ☐§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____

Other: _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ _____

☐ Appointed PD or appointed other counsel,3% to County (if paid in installments) \$ 8.25 3.75M

\$47.12 requires \$500 be paid to Clerk

TOTAL \$ 283.25 128.75M

during probation.

Clerk of Court/Deputy Clerk: [Signature]

Presiding Judge: [Signature]

Court Reporter: [Signature]

Judge Code: 2068

Sentence Date: 2/6/17

COUNTY OF CHARLESTON
STATE VS.

TIMOTHY MONTEZ WRIGHT

AKA: Tim Montez Wright, Timothy Montez Wright

Race: Black/African American Sex: M

DOB: [REDACTED] SS#: [REDACTED]

Address: Fort Johnson Road

City, State, Zip: Charleston, SC 29412-8814

DL# [REDACTED] SID# SC 01462259

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

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

TO: Dist. Cocaine 3rd

In violation of § 44-53-0370(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0185

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

ATTEST:

Lauren M. Frierson, Assistant Solicitor 77023 SC Bar #

Defendant

Attorney for Defendant 73866 SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 640 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED ☐☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ _____

3% to County (if paid in installments) \$ 8.25TOTAL \$ 283.25Clerk of Court/Deputy Clerk: Jane Kueger

Court Reporter: _____

INDICTMENT/CASE#: 2015-GS-10-05651

A/W: 2015A1010900341

Date of Offense: 03/03/2015

S.C. Code §: 44-53-0370(b)(1)

CDR Code #: 0183

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge: [Signature]Judge Code: 2000Sentence Date: 2/16/17