

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Charleston County

Honorable Michael G. Nettles, Circuit Court Judge

GERALD CORNELL GREEN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001755

APPENDIX

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STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON 2015-GS-10-5545
 2015-GS-10-3239
 2015-GS-10-3937
 2015-GS-10-3901
 2015-GS-10-3902
 2015-GS-10-3903

STATE OF SOUTH CAROLINA	}	TRANSCRIPT OF RECORD
-VS-		
GERALD CORNELL GREEN,		July 20, 2016
Defendant.		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:

Truc Thi Thanh Tran, Assistant Solicitor
 Attorney for the State

Martha Kent Runey, Deputy Public Defender
 Attorney for the Defendant

Reported By:

Amanda Kelly Haffenden, RPR, CRR
 Circuit Court Reporter for the
 Ninth Judicial Circuit

1 (July 20, 2016.)

2 THE COURT: You're Gerald Green?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Mr. Green, I've been handed a
5 number of indictments. You're standing with your lawyer.
6 Did she explain these charges to you, sir?

7 THE DEFENDANT: Yes, she has.

8 THE COURT: And she has explained the
9 possible punishment for each of the charges?

10 THE DEFENDANT: She did, yes.

11 THE COURT: Are these all mandatory minimums?

12 MS. RUNEY: I don't believe the possessions
13 have a mandatory minimum, but the trafficking --

14 MS. TRAN: Yes, Your Honor.

15 THE COURT: And that one is trafficking.
16 What is it, three to ten, or is this --

17 MS. TRAN: He was originally charged with a
18 second, which is a mandatory 25. We're reducing it to a
19 first, which is a mandatory seven.

20 MS. RUNEY: Seven to twenty-five.

21 THE COURT: Thank you. One of these days
22 maybe I'll keep them all straight.

23 MS. RUNEY: And the heroin is different.

24 MS. TRAN: It's a little strange.

25 THE COURT: Heroin, is it -- the third is ten

1 or is it still five? They cut it, didn't they?

2 MS. TRAN: The third is a five.

3 THE COURT: Five. It used to be ten.

4 MS. RUNEY: And crack is ten, and then
5 trafficking on the heroin is more than the crack and the
6 powder.

7 THE COURT: We got two trafficking?

8 MS. RUNEY: One trafficking. Yes, sir.

9 MS. TRAN: There should be one trafficking.

10 THE COURT: I have it. And that's the main
11 one?

12 MS. TRAN: Yes, sir.

13 THE COURT: Mr. Green, indictment 2016-3937
14 charges you with the offense of trafficking in heroin.
15 Do you understand that?

16 THE DEFENDANT: Yes, I do, sir.

17 THE COURT: And your lawyer has explained
18 that charge to you?

19 THE DEFENDANT: She has.

20 THE COURT: And explained it would be, what,
21 third offense for this too, the trafficking?

22 MS. TRAN: Trafficking --

23 THE COURT: Which would be a minimum 25
24 years. Do you understand that?

25 THE DEFENDANT: Yes, I do.

1 THE COURT: But you're pleading to a first
2 offense?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And that's a significant benefit.
5 Do you understand that?

6 THE DEFENDANT: I do.

7 THE COURT: And that carries a mandatory
8 seven years, but a maximum of twenty-five. Do you
9 understand it's also 85 percent, which is a
10 non-parolable?

11 THE DEFENDANT: I do, Your Honor.

12 THE COURT: And you understand it's a serious
13 offense?

14 THE DEFENDANT: I do.

15 THE COURT: And do you understand the
16 significance of that term?

17 THE DEFENDANT: I do, yes.

18 THE COURT: How do you plead?

19 THE DEFENDANT: I plead guilty.

20 THE COURT: Indictment 2015-5545 charges you
21 with possession of heroin, third offense. Do you
22 understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: That carries, what, ten?

25 MS. RUNEY: Five.

1 THE COURT: Up to five years. Do you
2 understand that?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: How do you plead?

5 THE DEFENDANT: I plead guilty, sir.

6 THE COURT: Indictment number 2015-3937
7 charges you with possession of heroin, another count,
8 third offense. Again, I could sentence you to five
9 years. Do you understand that?

10 THE DEFENDANT: Yes, I do.

11 THE COURT: How do you plead?

12 THE DEFENDANT: I plead guilty, sir.

13 THE COURT: Indictment 2015-3239 charges you
14 with possession of crack cocaine, third offense. You
15 understand I could sentence you to five years for that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: How do you plead?

18 THE DEFENDANT: I plead guilty, sir.

19 THE COURT: Indictment 2015-3903 charges you
20 with possession of heroin, third offense. Do you
21 understand that I could sentence you to an additional
22 five years?

23 THE DEFENDANT: I understand.

24 THE COURT: How do you plead?

25 THE DEFENDANT: Plead guilty, sir.

1 THE COURT: Indictment 2015-3902 charges you
2 with possession of crack cocaine, again third offense,
3 and, again, I could sentence you to five years. Do you
4 understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: How do you plead?

7 THE DEFENDANT: I plead guilty, sir.

8 THE COURT: Indictment 2015-3901 charges you
9 with possession of cocaine, third offense. Do you
10 understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you understand I could
13 sentence you to ten years for that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: How do you plead?

16 THE DEFENDANT: I plead guilty, sir.

17 THE COURT: Are you totally satisfied with
18 your lawyer?

19 THE DEFENDANT: Yes, I am.

20 THE COURT: Solicitor, other than allowing
21 him to treat the trafficking as a first offense, any
22 other agreements?

23 MS. TRAN: By pleading guilty, we are also
24 not serving the defendant with life without parole, which
25 he is eligible for.

1 THE COURT: So this would be actually, what,
2 his third strike?

3 MS. TRAN: Yes. He has two trafficking
4 offenses prior.

5 THE COURT: Ms. Runey, is that your
6 understanding?

7 MS. RONEY: I see where trafficking shows up
8 twice on his record. I think that's when he entered into
9 the Department of Corrections. So I think he had one
10 trafficking, but he does have two PWIDs in proximity of a
11 school, which would be strikes as well.

12 THE COURT: So he has them, and so he's
13 avoiding an LWOP?

14 MS. RONEY: Yes, sir.

15 THE COURT: Based on your investigation, do
16 you concur with the decision to enter the guilty pleas?

17 MS. RONEY: I do.

18 THE COURT: He's been advised of the rights
19 that will be relinquished and the consequences of his
20 decision?

21 MS. RONEY: Yes, sir.

22 THE COURT: Mr. Green, is that true, sir?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And you understand you give up
25 your right to have a jury trial, the right to confront

1 witnesses against you, and the right to remain silent?

2 THE DEFENDANT: I do understand.

3 THE COURT: Any threats or promises that were
4 made to you to get you to plead guilty?

5 THE DEFENDANT: No, sir.

6 THE COURT: Tell me the facts, ma'am.

7 MS. TRAN: On indictment 2015-3937, this
8 occurred on to October 6, 2014 at the intersection of
9 Mount Pleasant Street and Rutledge Avenue, Charleston
10 County. Officers conducted a lawful traffic stop on a
11 vehicle for disregarding a stop sign; and, furthermore,
12 the vehicle was traveling in the opposite lane of
13 traffic.

14 When the officer made contact with the
15 driver, he was the defendant. He observed the defendant
16 acting nervously. He was asked to exit the vehicle.
17 Upon exiting, the officer saw in plain view a plastic bag
18 containing an off-white rock-like substance on the
19 driver's seat, and the substance tested positive for .58
20 grams of heroin.

21 On indictment 2015-5545, this occurred on
22 February 10, 2015 at Cannon and Rutledge Street -- Cannon
23 Street and Rutledge Avenue. Officers conducted a lawful
24 traffic stop on the defendant's vehicle for drifting back
25 and forth between lanes. Upon making contact, the

1 officer was able to view in plain view a clear plastic
2 tube on the driver's floorboard that was burnt on both
3 ends.

4 The defendant was again asked to step out of
5 the vehicle, and the tube was retrieved. The defendant
6 told officers that it belonged to him and he had used it
7 to smoke crack cocaine. A search of the defendant's
8 person produced a clear plastic bag in his front pocket
9 which contained a substance which tested positive as
10 heroin.

11 On indictment 2015-3239, February 27th, 2015
12 at 1540 Savannah Highway, which is the Best Western
13 Hotel, officers with CPD observed defendant sitting in a
14 vehicle in the rear of the hotel. Upon making contact
15 with the defendant, he gave officers consent to search
16 the vehicle. The search produced two off-white rock-like
17 substances in the center console and white powdery
18 residue on a razor blade. The rock-like substance tested
19 positive as crack cocaine.

20 On indictment 2015-3901, 3902, and 3903, this
21 occurred on March 28, 2015 in the parking lot of 897
22 Folly Road, Charleston County, which is the Kangaroo gas
23 station. A deputy with the Charleston County sheriff's
24 office responded to a concerned citizen call, advising
25 that there was a subject passed out inside of a white

1 SUV.

2 When he approached the vehicle, he observed
3 the defendant slumped over in the driver's seat and the
4 center console of this vehicle and the vehicle was still
5 running. The deputy opened the driver's side door,
6 turned off the ignition, observed a baggy containing a
7 white powdery substance in plain view on the floorboard,
8 the driver's floorboard, defendant's seat, that was .95
9 grams of cocaine.

10 In that same bag, he found two other baggies
11 which contained an off-white rock-like substance. It was
12 .69 grams of crack cocaine, and then there was also found
13 a bag with five torn folded pieces of paper containing
14 .97 grams of heroin.

15 Your Honor, on the trafficking, which is
16 2016-3947, this occurred on November 16, 2015. Agents
17 with the city of Charleston drug enforcement task force
18 received a tip that the defendant would be conducting a
19 drug transaction with a known subject in the area of
20 Bogart and Norman Street, Charleston County. Agents and
21 officers established surveillance in the area, was able
22 to observe the defendant conducting a hand-to-hand
23 transaction with an unknown subject.

24 Afterwards, the defendant walked west, and
25 agents observed him putting something in his pocket.

1 They approached him, conducted a pat-down search, which
2 produced a plastic bag containing 6.93 grams of heroin.
3 After his arrest, the defendant admitted buying heroin
4 from suppliers in trafficking weight.

5 His record -- he has a pretty lengthy record.
6 The highlights: 1981, a possession of marijuana, also
7 assault on a police officer; 1983, sale of imitation
8 controlled substance; 1989, carrying a loaded firearm;
9 1990, carrying a concealed weapon and marijuana; 1992, he
10 had a possession of cocaine and resisting arrest, the
11 trafficking cocaine for which he received ten years, a
12 possession with intent to distribute crack cocaine, which
13 he received 15 years for; 2000, he has a possession of
14 cocaine and an unlawful carrying of a weapon; 2003,
15 receiving stolen goods and assault on a police officer;
16 2004, he had the distribution of cocaine in proximity.

17 THE COURT: What did he get for that?

18 MS. TRAN: 2004, he got six years, and then
19 in 2011, he has another distribution of cocaine and
20 resisting arrest, for which he got three years.

21 Your Honor, obviously, he has the seven years
22 on the trafficking, and it is mandatory. We're asking
23 for, obviously, jail time. He's gotten a sentence of ten
24 years. He's gotten a sentence of 16 years, so we're
25 asking for something in the range of 15 years or a little

1 bit more just because he does have a very lengthy record
2 and all of his charges that he's facing today.

3 THE COURT: Okay. Thank you. Those facts
4 correct, sir?

5 THE DEFENDANT: Yes, sir. I know it sounds
6 horrible, but --

7 THE COURT: Sounds horrible?

8 THE DEFENDANT: Yeah.

9 THE COURT: That's a mild understatement.
10 You've been dodging this inevitably. You're dodging it
11 again. I mean, really, the State's giving you a break, a
12 major one, because all they have to do is find you guilty
13 of this one, and, you know, the frightening thing about
14 trafficking is everybody thinks -- when you hear
15 trafficking, you think somebody is in it to make a lot of
16 money, but that's not what they have to prove. They have
17 to prove you were in possession of a certain amount, and
18 that's it.

19 And a lot of times people get trapped because
20 they say, well, I'm going to get the group supply and you
21 get caught with it, and now you get trafficking. And
22 that's maybe unfair about the law, but that's the reality
23 of the world, and you, of all people, know that because
24 you've faced it before. So, definitely, it looks bad,
25 and it is.

1 I'll accept the plea, Ms. Runey. I'll be
2 happy to hear from you.

3 MS. RUNEY: Thank you.

4 Gerald is 51 years old. He grew up in
5 downtown Charleston on Warren Street, grew up attending
6 Holy Trinity church. It's kind of on the side of Warren
7 Street, attended Burke High School. He has a nice mother
8 that retired after 28 years from the VA, and in my
9 discussions with Gerald, I said, Do you want me to have
10 her here? and he doesn't want to have her here.

11 I could certainly understand that as well.
12 He doesn't want to put her through this, even though she
13 still will have to deal with the pain of him having to go
14 to prison.

15 Gerald was here in court on all of the
16 possession charges, and not long after that is when the
17 trafficking charge happened, and he has been in jail
18 since his arrest on that charge, which is 247 days. He's
19 completed the DAODAS program while he's been in the jail.
20 The possession charges were kind of back to back;
21 February, March, April, and May. He was working a job, a
22 construction job, and his boss would help him bond out on
23 those possession charges, and he would go back to work,
24 amazingly enough.

25 So he would help him get out, and I almost

1 wish that he had stayed in jail on those because maybe we
2 wouldn't be here on this trafficking charge. It's a
3 wonder he's still alive. You know, you heard the facts
4 from the possession charges, that he slumped over in a
5 car, or they found him on the street with it.

6 He has three children, and he -- he's really
7 sad, and he should be. This is a serious thing, and he
8 knows he's got to go to prison, and we've had long
9 discussions that -- we don't have to tell Your Honor
10 these things about he didn't hurt anybody, but at some
11 point with this record, it just piles up on him. He was
12 hurting himself. That's for sure, and another thing that
13 we discussed with these drug charges too is that you may
14 have a witness that's afraid to come forward in a murder
15 or assault, and on these drug charges, these police
16 officers are there, and they're willing to come in and
17 testify at trial. He is getting a break with the
18 reduction, and we appreciate that from Ms. Tran, but we
19 know what could happen at trial, and that's why we're
20 here today.

21 He's talented. He can refinish furniture.
22 He's worked construction. He's just had, I would say, a
23 lifelong addiction to drugs. I would say 30 plus years,
24 and it's just something that he hasn't been able to kick.
25 You heard his record earlier, so I don't have to go in

1 depth about this, but he's -- he was out there selling
2 drugs, but he is not what we think of as a drug dealer.

3 THE COURT: Selling to support his habit.

4 MS. RUNEY: Yes, sir; yes, sir. I'd like for
5 you to hear from Gerald. I think he's sincere. He's
6 been a nice client to work with. I'm just sorry that
7 he's in this situation. I think this is what he's got to
8 do. This is what I've advised him to do.

9 He did the ten-year sentence when he was 27
10 years old. I don't think that that would be the same
11 with him now. He's 51, and I will tell you, Judge, that
12 he looks so much better than he did last November. He
13 looked a lot older than 51 years old when he came into
14 our jail, so I ask you to consider all those things and
15 to hear from Gerald before you fashion a sentence for
16 him.

17 THE COURT: Thank you. Mr. Green, I'll be
18 happy to hear from you, sir.

19 THE DEFENDANT: Yes. First of all, I want to
20 reiterate what she said about me not having no support
21 from my loved ones right now. I do have their support,
22 but I chose not to let them know that I was coming to
23 court.

24 THE COURT: I understand.

25 THE DEFENDANT: Second of all, like she said,

1 I had an addiction for a long time, and the addiction
2 kept getting more serious and more serious, you know,
3 throughout the years.

4 I've been in DAODAS since January 10th, and I
5 completed it last month, and I learned a lot about my
6 addiction, you know, how to cope with it, and I do have a
7 counselor at DAODAS and I do have an acceptance letter
8 from the STRONG program, and I know it's asking a lot,
9 but I feel like I could be a benefit to the community. I
10 know it's a two-year program, and I do think I owe that
11 to society, and I can do that two years. Even if I get
12 ten years' probation, I could do it. I feel I could do
13 it, you know?

14 THE COURT: I think you're probably sincere
15 in your commitment to that, but you really have run out
16 of opportunities. That's the problem. You pushed that
17 envelope as far as you can push it. In fact, you know
18 and I know you should thank the State for allowing you
19 the opportunity to do that because they didn't have to,
20 and they have, and let me tell you something: I've had
21 to do it I think it's two or three times in my career of
22 22 years.

23 One of them, he deserved life, but the other
24 one, the guy broke down crying. He said, Give me the
25 maximum -- the mandatory minimum. I said, I can't do it.

1 It was a trafficking case, and it was his third strike.
2 And the Court has said, over and over, we don't have any
3 discretion. I don't think he deserved a life sentence,
4 but that's what I had to impose.

5 You got a break today. You know that. You
6 understand the one difference now -- and I appreciate and
7 I understand your position, and I don't disagree with you
8 so far, but all these other times -- that's why I'm
9 delighted, and I wish we could do something with all of
10 them because it's helpful for me, at least, in planning a
11 sentence, knowing what he's got to serve.

12 I tried a murder case in Berkeley. He was
13 given 15 years, but if he was still in prison, he
14 wouldn't have committed a murder, but he got out of
15 prison long before that 15 years. With this one I can
16 control it.

17 You understand that you have to serve 85
18 percent?

19 THE DEFENDANT: I do, sir.

20 THE COURT: And you understand that when
21 you're released after serving 85 percent, you have a
22 two-year community supervision?

23 THE DEFENDANT: Yes, I do.

24 THE COURT: And if you fail to complete that,
25 the Court can return you to prison in amounts up to one

1 year at a time for the remaining portion. Do you
2 understand?

3 THE DEFENDANT: Yes, sir. I understand what
4 you're saying.

5 THE COURT: All right. Because that's
6 important because I had occasion to work with a lawyer
7 with the department of probation and parole who was a
8 public defender at one point and now runs the department,
9 and he helped me with strategy on these sentences because
10 I didn't think there was any purpose in splitting a
11 sentence on -- because you can't get probation on a
12 non-parole offense. Do you understand that? Because the
13 probation is statutorily prescribed, and that's a period
14 you have to do.

15 You can create more available years that you
16 can be returned by splitting a sentence, and I'm going to
17 do that, and the reason for it is I believe you're
18 sincere, but I also want to give you an incentive to do
19 that two years, because if you get through that, you
20 probably are on your way. You are probably on your way
21 to sobriety for the rest of your life, and I hope you'll
22 get that.

23 Please remember something: Even if you
24 complete that, don't ever lose sight of the fact that
25 you're going to need help. Just like you learned in the

1 the DAODAS program, there are programs there that will
2 help you tremendously, and I encourage you to seek those.
3 Okay?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: The sentence of the Court on
6 indictments 2015-3239, 3901, 3902, 3903, 3937, 5545 is
7 five years on each of those. I'll give you credit for
8 the 247 days that you've served. They're concurrent.

9 Sentence of the Court on 2016-3947 is that
10 you be committed to the Department of Corrections for a
11 term of twelve years. I give you credit for the 247 days
12 credit and it is concurrent -- excuse me. Let me
13 rephrase that.

14 Sentence is 25 years suspended upon the
15 service of 12 years. That's that split I told you. What
16 that means is this: According to my math, you'll have to
17 do 10.5 years on the 85 percent. That leaves two years
18 on the 12, but it really leaves 14 years, or 15 years,
19 that you'll have that you could be returned. You could
20 be returned 15 times on a yearly basis, if you're
21 unsuccessful. Okay? I hope that doesn't happen. I
22 don't want that to happen. I just want that to be there
23 to be an incentive.

24 Okay? Good luck to you, sir.

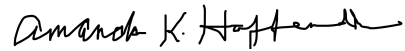
25 - - -

1 (Whereupon, the proceedings were concluded.)
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I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, 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 all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 20th of July 2016.

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

August 13, 2017



Circuit Court Reporter

FORM 5

2017-CP-10-2804

STATE OF SOUTH CAROLINA)

COUNTY OF)

IN THE COURT OF COMMON PLEAS

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

Gerald Cornell Green #187172)
v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lieber Corr. Institution
2. Name and location of Court which imposed sentence Charleston County S.C.
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a)	<u>2015-GS-10-05545</u>	<u>2015-GS-10-03902</u>
(b)	<u>2015-GS-10-03239</u>	<u>2015-GS-10-03901</u>
(c)	<u>2015-GS-10-03937</u>	<u>2015-GS-10-03903</u>
5. The date upon which sentence was imposed and the terms of the sentence:

(a)	<u>July-20, 2016</u>	<u>25-Years Suspended to 12-Years</u>
(b)	<u>7-20-2016</u>	

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

No

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

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

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) Immediately after my hearing I tried to get
 (b) in touch with my Attorney to do a reconsideration
 (c) I also wrote her a letter the next day. She (see reverse)

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

custody unlawfully: A recommendation was made to the
(see reverse)

Continue
from questions

(a)

9) didn't answer until three weeks later. When she did answer, she acknowledged in her letter a mistake was made by the solicitor when she made a recommendation to the court for sentencing when clearly my sentencing sheet states "No Recommendations."

10) court by the solicitor. The sentencing sheet I signed before my hearing states no recommendations would be made by the solicitor. And I believe my Attorney should have objected when the solicitor did make that mistake so it would be on record that she did. (Insufficient Counsel)

- (a) _____
- (b) _____
- (c) _____

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

- (a) I also stated the facts in my answers
- (b) to questions ten. See reverse side of
- (c) sheet to question ten.

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

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

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

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (c) the disposition thereof:
 - i. _____
 - ii. _____
 - iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

No

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) My Attorney states "My best course of action

(b) is to file a Post Conviction Relief."

(c) _____

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

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

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

- (a) the name and address of each attorney who represented you:
 - i. Martha Kent Runey - Chas. Co. Public Defender
 - ii. O.T. Wallace Co. Off. BLDG. 101 Meeting Street 5th Floor
 - iii. Charleston, SC 29401-2214
- (b) the proceedings at which each such attorney represented you:
 - i. Guilty plea hearing
 - ii. _____
 - iii. _____

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

Vacate or Reduction of sentence to Seven Years

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

No

STATE OF SOUTH CAROLINA

)

VERIFICATION

County of

)

)

I, _____, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Harold Conrad Hearn

SWORN to and subscribed before me this

30

day of

May

2017.

Lyle K. B.

(L.S.)

Notary Public

My Commission Expires:

6-20-26

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

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

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


Applicant

SWORN or affirmed to and subscribed before me this

30 day of May, 2017.


Notary Public

My Commission Expires: 6-20-26

STATE
RECEIVED

RECEIVED

INMATE TRUST FUND ACCOUNT REPORT
for SOUTH CAROLINA COURT FILING FEES

MAY 23 2017

MAIL ROOM
LIEBER C.I.

MAY 16 2017

MAIL ROOM
LIEBER C.I.

INSTRUCTIONS TO INMATE: Complete top portion then give to your mailroom. When returned from Accounting, you must mail this form with any payment to the Court.

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print):

Gerald Cornell Green

AB10

SCDC #

187172

INMATE SIGNATURE:

Gerald C. Green

I plan to file this action in the SC County of

Charleston

The section below is for SCDC - Financial Accounting Branch's use ONLY.

- (1) Total deposits to inmate's account for preceding six months' period* \$ 0
- (2) Twenty percent (20%) of line 1 \$ 0
- (3) Account balance - current date \$ 150
- (4) PAYMENT AMOUNT **
(lesser of line 2 or line 3)
Enclosed check # \$ 0

**NOTE to COURT: If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections

Financial Accounting - Room 234

PO Box 21787

Columbia, SC 29221-1787

Admission date is noted here if inmate incarcerated less than six months 5/19/17

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
Gerald Cornell Green, #187172,	)	Case No.: 2017-CP-10-2804
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent, making its Return to the application for Post-Conviction Relief (PCR) filed on June 1, 2017, would respectfully show this Court:

I.

Gerald Cornell Green (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. During its July 2015 term, the Charleston County Grand Jury indicted Applicant for possession of crack cocaine, third offense, (2015-GS-10-3239). During its August 2015 term, the Charleston County Grand Jury indicted Applicant for two counts of possession of heroin, third offense (2015-GS-10-3903, -3937), possession of crack cocaine, third offense (2015-GS-10-3902), and possession of cocaine, third offense (2015-GS-10-3901). During its October 2015 term, the Charleston County Grand Jury indicted Applicant for possession of heroin, third offense (2015-GS-10-5545). The Charleston County Grand Jury subsequently indicted Applicant for trafficking in heroin (more than 4 grams but less than 14 grams) (2016-GS-3947). Martha K. Runey, Esquire, represented Applicant on all charges. Assistant Solicitor Truc Thi Thanh Tran, Esquire, prosecuted the case.

On July 20, 2016, Applicant appeared in the Charleston County Court of General Sessions before the Honorable R. Markley Dennis, Jr., circuit court judge, and pled guilty as indicted. Judge Dennis sentenced Applicant to twenty-five years imprisonment suspended upon the service of twelve years imprisonment for trafficking in heroin (more than 4 grams but less than 14 grams) and to concurrent terms of five years each for all remaining charges with credit for time served. Applicant did not appeal his pleas or sentences.

II.

On October 6, 2014, officers executed a lawful traffic stop on Applicant at the intersection of Mount Pleasant Street and Rutledge Avenue in Charleston. *Plea Tr.* 8:7-15. Officers found in plain view a plastic bag containing .58 grams of heroin. *Id.*, 8:17-19. On February 10, 2015, officers conducted a lawful traffic stop on Applicant at Cannon Street and Rutledge Avenue and saw in plain view a clear plastic tube that was burnt on both ends. *Id.*, 8:22-9:3. Applicant admitted the tube was his and he used it to smoke crack cocaine, and officers found on Applicant a bag containing heroin. *Id.*, 9:5-10.

On February 27, 2015, officers observed Applicant sitting in his car behind a Best Western Hotel on Savannah Highway, and obtained consent to search his vehicle. *Id.*, 9:11-16. Officers found two off-white rock-like substances that tested positive for crack cocaine and a razor blade with white powdery residue. *Id.*, 9:16-19.

On March 28, 2015, officers responded to a concerned citizen call regarding a driver passed out in his car at the Kangaroo gas station on Folly Road. *Id.*, 9:20-10-1. Officers arrived and found Applicant passed out in the driver's seat and observed in plain view a bag containing a white powdery substance. *Id.*, 10:2-7. The powder tested positive for .95 grams of cocaine, and

officers found within the bag a smaller bag containing .69 grams of crack cocaine and another bag containing .97 grams of heroin. Id., 10:8-14.

On November 16, 2015, agents with the City of Charleston drug enforcement task force received a tip that Applicant would be conducting a drug transaction in the area of Bogart and Norman Streets. Id. 10:15-23. Officers observed Applicant conducting a hand-to-hand transaction with an unknown subject, then walk away while putting something in his pocket. Id., 10-11. Officer conducted a pat down of Applicant and recovered 6.93 grams of heroin, Applicant admitting to making the purchase. Id., 10-11.

Upon hearing the above facts read to the Court at his plea hearing on July 20, 2016, Applicant admitted them as true. Id., 12:3-6.

III.

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

1. Ineffective Assistance of Counsel, in that:
 - a. Applicant's sentencing sheets stated he was pleading without negotiation or recommendation, but the solicitor made a recommendation during the sentencing phase of his plea hearing. His counsel did not object to the recommendation, and Applicant alleges counsel was ineffective in failing to object.

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

IV.

Respondent submits 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 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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

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

VI.

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

VII.

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

VIII.

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

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

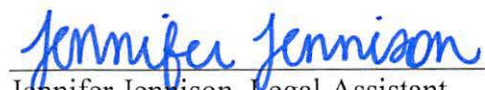
10/26, 2017

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	2017-CP-10-2804
	)	
GERALD CORNELL GREEN, #187172	)	
	)	
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 Kristian Falk, Esquire
Falk Law Firm, LLC
PO Box 1058
Charleston, SC 29402

DATED this the 20th day of October, 2017.



 Jennifer Jennison, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	DOCKET NO. 2017-CP-10-2804
	)	
	)	
GERALD CORNELL GREEN	)	
	)	
Applicant	)	
	)	
vs.	)	
	)	
STATE OF SOUTH CAROLINA	)	
	)	
Respondent	)	
	)	
	)	
	)	
	)	TRANSCRIPT OF RECORD

July 24, 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 FALK, ESQ.
Attorney for the Applicant

BENJAMIN LIMBAUGH, ESQ.
Attorney for the Respondent

JOYCE C. RUEGER, CVR-M
Circuit Court Reporter

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APPLICANT

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Gerald Cornell Green v State
Post-Conviction Relief Hearing
July 24, 2019

1 PROCEEDINGS

2 THE COURT: Good morning everybody.

3 MR. LIMBAUGH: May we approach, Your Honor?

4 THE COURT: Yes.

5 [Whereupon, an off the record bench conference is

6 held]

7 MR. LIMBAUGH: Thank you, Your Honor.

8 THE COURT: Let's see if we can get Mr. Green.

9 [Whereupon, Mr. Green enters the courtroom]

10 THE COURT: There he is. Hello, Mr. Green.

11 MR. GREEN: How you doing?

12 THE COURT: I'm going to recognize the Attorney

13 General and let him set forth the procedural history and

14 then we'll recognize Mr. Falk with a delineation of the

15 grounds that he intends to pursue.

16 MR. LIMBAUGH: Thank you, Your Honor. May it please

17 the Court? Benjamin Limbaugh for the State of South

18 Carolina. This is Mr. Gerald Green, case number 2017-CP-

19 10-2804.

20 During its July 2015 term the Charleston County

21 Grand Jury indicted Applicant for possession of crack

22 cocaine third offense. Then during its August 2015 term

23 the Charleston County Grand Jury indicted Applicant for

24 possession of crack cocaine third offense and two counts

25 of possession of heroin third offense. During its

Gerald Cornell Green v State
Post-Conviction Relief Hearing
July 24, 2019

1 October 2015 term Charleston County Grand Jury indicted
2 Applicant for possession of heroin third offense.
3 Subsequently, the Charleston County Grand Jury indicted
4 Applicant for trafficking in heroin more than four grams
5 but less than 14 grams.

6 Assistant Public Defender Martha Kent Runey of the
7 Charleston County Public Defender's office represented
8 him on his charges. On July 20th, 2016 Applicant
9 appeared before the Honorable R. Markley Dennis, Jr. and
10 pled guilty to the lesser included offense of trafficking
11 heroin first offense.

12 Applicant pled guilty as indicted to all other
13 charges. Judge Dennis sentenced Applicant to a term of
14 imprisonment of 25 years suspended to 12 years
15 imprisonment for the trafficking charge and concurrent
16 terms of imprisonment of five years for the remaining
17 charges. Applicant did not appeal his plea or sentence.

18 On June 1st, 2017 Applicant filed an application for
19 post-conviction relief alleging ineffective assistance of
20 counsel for failing to object when the State made a
21 recommendation during sentencing and when the sentencing
22 sheets stated the plea was without negotiations or
23 recommendations.

24 On October 20th, 2017 Respondent in his return
25 requested an evidentiary hearing be held. Applicant is

Gerald Cornell Green v State
Post-Conviction Relief Hearing
July 24, 2019

1 present today and represented by Mr. Jim Falk. Your
2 Honor, I believe Mr. Falk has a motion before we get
3 started and would relay some background to Your Honor.

4 MR. FALK: Your Honor?

5 THE COURT: Mr. Falk?

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Gerald Cornell Green v State
Post-Conviction Relief-Motion To Address Rule 5 Redactions-By Mr. Falk
July 24, 2019

1 MR. FALK: Your Honor, whenever he came here my
2 client was concerned about his discovery materials. And
3 on page 28 of the Rule 5 materials there was a reference
4 to the Department of -- a DEA investigation and the
5 document was highly redacted. So I've spent the last
6 year fighting with the Department, it's the Department of
7 Justice; the DEA, yet with a FOIA request to get the
8 information.

9 In May I guess, the end of May, I got a 32 page
10 response from the Department with most of the information
11 I think I would need is probably redacted. I can show
12 the Court. This is a highly redacted document. And his
13 concern is that he knows that he was not stopped just
14 because of a random police stop but he was being
15 surveilled by the DEA and reason to believe that the
16 surveillance was based on a tracking device that was on
17 his phone.

18 And his point is that he was stopped as a result of
19 an illegal, of a warrantless search of his phone either
20 tracking device or phone interception he would not have
21 pled guilty. I'm at the point right now that and I
22 discussed this with my client and I explained to him that
23 we can try and fight these redactions. I know there is a
24 mechanism to try to get some more clarification as to
25 what was kept secret but it could take another year.

Gerald Cornell Green v State
Post-Conviction Relief-Motion To Address Rule 5 Redactions-By Mr. Falk
July 24, 2019

1 It took a year to get this and so I don't know how
2 much longer it would take to get that. He served out --
3 all the five years sentences he's probably already maxed
4 out on so he's really just on his 12 year sentence. He
5 would like more time to address these redactions.

6 THE COURT: All right. I'm going to hold that
7 motion in abeyance and we're going to proceed forward
8 with the testimony here today and see where it leads us.

9 MR. FALK: Thank you, Your Honor.

10 THE COURT: You may call your first witness ---

11 MR. FALK: --- I would call Mr. Green ---

12 THE COURT: --- before we do that let's delineate
13 what grounds you're pursuing here today.

14 MR. FALK: Here it would be an unintelligent guilty
15 plea because -- uninformed guilty plea because he would
16 form -- he pled guilty without the knowledge that there
17 was potentially an illegal search. And his allegation
18 would be had he realized that there was an illegal search
19 or a warrantless search or a tracking device put on his
20 phone without a warrant by the DEA he would want to fight
21 that.

22 Your Honor, at the end of this I was going to make
23 this exhibit, this redaction Respondent's [sic] exhibit
24 1.

25 THE COURT: As far as these tracking devices it's

Gerald Cornell Green v State
Post-Conviction Relief-Motion To Address Rule 5 Redactions-By Mr. Falk
July 24, 2019

1 almost routine for the U.S. Marshal's Office to come and
2 get orders for these phone surveillance things. And
3 those are actually in the file. You can look at -- if
4 there is an investigation in federal court on an active
5 case an order is going to be in the file. Have you
6 looked at the file?

7 MR. FALK: I mean I could -- I don't have access to
8 his criminal file, the federal criminal file. That's why
9 I went -- that's why I ---

10 THE COURT: --- I think that's a matter of public
11 record.

12 MR. FALK: Your Honor, if I could just show you.
13 This is what was given to me.

14 [Whereupon, Mr. Falk provides documents to the
15 Court]

16 MR. FALK: This is what I would expect to see in
17 the file. And its -- I mean I advised the DEA that ---

18 THE COURT: --- was he prosecuted in federal court?

19 MR. FALK: No.

20 [Whereupon, the Court reviews documents]

21 THE COURT: Okay. We'll make that a part of the
22 record.

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

25 [Whereupon, Applicant's exhibit number 1 is entered

Gerald Cornell Green v State
Post-Conviction Relief-Motion To Address Rule 5 Redactions-By Mr. Falk
July 24, 2019

1 into evidence by the Court]

2 MR. FALK: And Mr. Limbaugh has a copy of this.

3 THE COURT: All right. Do we have the plea
4 transcript?

5 [Whereupon, the Court reviews documents]

6 THE COURT: Here it is. I have it. And
7 essentially there is only one ground you say it was not
8 an intelligent waiver of his rights and they were all
9 encompassed in the voluntariness of the plea?

10 MR. FALK: Yes, Your Honor.

11 THE COURT: That's essentially the ground;
12 voluntariness of the plea?

13 MR. FALK: Voluntariness of the plea based on this
14 information, or lack of information.

15 THE COURT: You may call your first witness.

16 MR. FALK: I call Mr. Green.

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Gerald Cornell Green v State
Post-Conviction Relief-Gerald Green-Direct Examination by Mr. Falk
July 24, 2019

1 [Whereupon, Mr. Green comes forward]

2 THE COURT: You can take a moment to set down your
3 paperwork there on the witness stand and back right up a
4 step or two and place your left hand on the Bible and
5 raise your right hand as the Clerk administers the oath.

6 [Whereupon, the witness complies]

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

9 THE COURT: I'd ask you if you could to take your
10 time. Let's turn that chair around and pull up real
11 close to that microphone. I'm going to ask you if you
12 could to speak loudly, clearly, and slowly so that we can
13 hear everything that you have to say. Let's start with
14 your full name please, sir.

15 THE WITNESS: Gerald Cornell Green.

16 THE COURT: Very good. Mr. Falk?

17 - - - - -

18 GERALD GREEN,

19 Having been first duly sworn,

20 Was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FALK:

23 Q. Mr. Green, who represented you in this case?

24 A. Ms. Martha Runey.

25 Q. Okay. And did she talk with you prior to -- did she

Gerald Cornell Green v State
Post-Conviction Relief-Gerald Green-Direct Examination by Mr. Falk
July 24, 2019

1 review the discovery with you prior to entering your
2 plea?

3 A. Prior to it? Yes. Once she came -- well, she came
4 and spoke to me the week prior to me going to court. And
5 she told me that she was going to take me off of the
6 docket because they had a negotiated plea for 18 years so
7 I told her I would rather go to trial than to plead to
8 that.

9 So she said I'll tell you what. I'll come and speak
10 to you before that date, if I can get a better deal. But
11 if not, I'll take you off of the docket. She never came
12 and spoke to me so I assumed I wasn't going to court.

13 But just all of a sudden that following Wednesday
14 they called me and told me that I had an afternoon
15 hearing. And when I got to the courtroom she told me
16 she brought me down here because she did have a better
17 plea you know that they would offer me something better.

18 They took the 18 years off the table and they agreed
19 to an open plea from seven to 25. And she said that also
20 was a good idea because first of all she said they wasn't
21 trying me under a third offense in which ---

22 Q. --- so they were going to charge you with a lesser
23 offense?

24 A. A lesser offense, yes. And she also told me that
25 the Solicitor wouldn't be there that there would be a

Gerald Cornell Green v State
Post-Conviction Relief-Gerald Green-Direct Examination by Mr. Falk
July 24, 2019

1 substitute sitting in so that would probably be in my
2 favor you know. Then she also showed me the plea
3 agreement where the Solicitor agreed not to make a
4 recommendation. To my surprise when I went into the
5 courtroom the Solicitor was here.

6 The Solicitor did make a recommendation in which you
7 know I kind of nudged her because I wanted her to object
8 to it. But she just threw her hands up like she was
9 bewildered too --

10 THE COURT REPORTER: Like she was?

11 THE WITNESS: Bewildered. Like she was ---

12 Q. [Mr. Falk] --- bewildered.

13 THE COURT REPORTER: Thank you.

14 [Off the record momentarily]

15 A. And so at the time I just felt like you know I
16 wouldn't say tricked into it but I felt betrayed you
17 know.

18 Q. [Mr. Falk] But you got a 12 year sentence.

19 A. I got the 12 year sentence, yeah.

20 Q. Okay. Let me just before somebody else asks you
21 these questions I'm going to ask you these questions.

22 A. Okay.

23 Q. Do you realize that the only remedy that Judge
24 Nettles can grant today, the PCR Judge can grant today,
25 is to allow you to withdraw all your pleas?

Gerald Cornell Green v State
Post-Conviction Relief-Gerald Green-Direct Examination by Mr. Falk
July 24, 2019

1 A. Yeah.

2 Q. And you realize what the consequences of that would
3 be is that your case would be sent to the Solicitor's
4 office.

5 A. I do understand.

6 Q. And any kind of concessions that they originally
7 made would be off the table.

8 A. Yes, I understand.

9 Q. In effect you would step back into the shoes you
10 were wearing the morning that you entered that plea.

11 A. Yes, I'm prepared for that.

12 Q. Okay. And potentially there could be a consequence
13 that you could get an LWOP sentence or a life sentence.

14 A. I'm aware.

15 Q. Okay. Thank you. When did you receive your Rule 5
16 materials?

17 A. I got arrested in November. I received it like
18 February; somewhere in February.

19 Q. Okay.

20 MR. FALK: Your Honor, may I approach?

21 THE COURT: Yes.

22 MR. FALK: Let me also mark this as Applicant's 2.

23 [Whereupon, Applicant's exhibit number 2 is marked
24 by the court reporter]

25 [Whereupon, the witness is shown document]

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1 Q. [Mr. Falk] Was that -- can you tell me what that
2 document is?

3 A. The only thing I can read on this is the title.

4 Q. I'm sorry. Did you -- was that given to you as part
5 of your Rule 5 materials.

6 A. It was.

7 Q. Okay. Can you read the page number on there?

8 A. The page number is Rule 5.

9 Q. And then on the other side what does it say, 29 ---

10 A. --- zero 28.

11 Q. Okay, zero 28. So that's page 28 of your Rule 5
12 materials, is that correct?

13 A. Yeah, but I only received...

14 Q. When did you get that?

15 A. Like in February.

16 Q. Okay. And what are your concerns about that page?

17 A. First of all I noticed that it wasn't 28 pages; it
18 was 24 pages. And the most of my concern is that
19 everything in it that is indicating me is blacked out; I
20 can't read nothing.

21 So I asked Ms. Runey about that right there. I told
22 her well, see if you can use that to get me a better deal
23 because if they not going to give me something to defend
24 myself I mean I don't have a chance. If they could use
25 that against me but I can't use it to defend myself.

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1 Q. Well, let's back up. When you pled guilty why did
2 you think you got arrested? Now, you were in your car,
3 is that correct?

4 A. No, I was walking.

5 Q. All right. You were walking. So what happened?
6 Police came up and stopped you on the street?

7 A. Yeah, they stopped me on the street and told me that
8 someone had just robbed somebody out of a gold chain and
9 that's what they were looking for; a suspect, and they
10 said I matched the description. But...

11 Q. And what happened next?

12 A. They told me to just put my hands on the car and
13 they took everything out of my pockets and they detained
14 me temporarily right then.

15 So there was like five officers and they were coming
16 up in like four or five different cars too and they was
17 coming up one at a time.

18 Q. Okay. Let me kind of ask you one step at a time.

19 A. Okay.

20 Q. Did you have any contraband on you when you got
21 arrested, when you got stopped?

22 A. Yes, I did have contraband.

23 Q. What was in your pockets?

24 A. It wasn't in my pocket. It was money in my pocket,
25 cell phone, just a couple of miscellaneous items. There

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1 wasn't drugs in my pocket.

2 Q. There were drugs in your pocket?

3 A. There wasn't.

4 Q. Okay. So then what happened?

5 A. After they searched me one officer told me to just
6 sit to the side on the sidewalk while they got in the car
7 and they started making phone calls. So he got out and
8 he said search him again so they searched me one more
9 time. They didn't find nothing so they told me to sit
10 back down.

11 And this lead -- I guess he was the leader of the
12 team he went inside of his vehicle and he got on his cell
13 phone. And when he got off the phone he told the officer
14 to get me back off the ground, search him again because
15 he's got to have it because it went down.

16 At that point there that's when I realized they
17 wasn't looking for a gold chain you know. And that's
18 when he went in my underwear and he got the drugs I had.

19 Q. So there was contraband on your body that day?

20 A. No.

21 Q. You said they was in your underwear?

22 A. Uh Huh.

23 THE COURT REPORTER: Is that yes?

24 A. Yes, ma'am. Yes.

25 Q. [Mr. Falk] Okay. All right. So, was it your

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1 understanding that that's why you were being arrested for
2 drugs because they found drugs on your person that day?

3 A. Yeah. At that time, yeah that's when I realized
4 that they knew what I was doing, yeah.

5 Q. Okay. Did anyone identify themselves as being part
6 of the Drug Enforcement Agency?

7 A. No, sir.

8 Q. Okay. So you thought this was a Charleston
9 Sheriff's Office County Police Department arrest?

10 A. Yeah. To be honest with you I really didn't know
11 what they was. I just knew they was officers, you know.

12 Q. Okay. And so then coming along you were given this
13 deal, you got 12 years, is that correct?

14 A. Yes, sir.

15 Q. Okay. Did you know if there was a -- did you know
16 that you were being surveilled by the local Charleston I
17 think it's called the Charleston Resident Office, CRO, of
18 the Drug Enforcement Agency?

19 A. I didn't know at that time.

20 Q. Did you know whether or not there was any type of
21 investigation tracking device that they had placed on
22 your phone?

23 A. No sir, I didn't.

24 Q. Had you known that -- had you known that there was,
25 do you have any -- do you now have any suspicion that

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1 there possibly was a warrantless tracking device placed
2 on your phone?

3 A. Yeah. I got the proof right here because I have the
4 report. What its saying is they was monitoring my phone
5 and they got word for word what I was telling the guy ---

6 Q. --- what document is that?

7 A. It's the original arrest report, the report of the
8 investigation. That's the report that I first got when I
9 got arrested.

10 Q. So they were monitoring your phone?

11 A. Yeah, Uh Huh.

12 Q. And let's look at that document.

13 [Whereupon, Mr. Falk retrieves document from the
14 witness]

15 MR. FALK: We'll mark this as exhibit 3.

16 [Whereupon, Applicant's exhibit number 3 is marked
17 by the court reporter]

18 Q. [Mr. Falk] So I'm showing you what we marked as
19 exhibit 3.

20 [Whereupon, the witness is shown document]

21 Q. And that was part of your Rule 5 materials?

22 A. Uh Huh.

23 Q. And what is ---

24 THE COURT REPORTER: --- is that yes?

25 A. Yes.

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1 Q. [Mr. Falk] And what is the page number on that?

2 A. It's zero 25.

3 Q. Okay. So they were monitoring your phone. Is that
4 what it says?

5 A. Yes, sir. Yeah. Uh Huh.

6 Q. Let me publish that to the Court what it says
7 exactly.

8 A. Okay.

9 THE COURT: Mr. Green, I know it might be difficult
10 to do that but you have a tendency to say Uh Huh and Uh
11 Uh. She needs to write it down and when you read Uh Huh
12 and Uh Uh on the transcript it looks like the same thing.
13 There's a lot of difference between yes and not. So you
14 need to say yes or no.

15 THE WITNESS: All right. I'll keep that in mind.

16 THE COURT: Very good.

17 Q. [Mr. Falk] Mr. Green, I'm going to read what was at
18 paragraph 2 on that page and it says: That on November
19 16th, 2015 while monitoring TT26 comma agents intercepted
20 a series of telephone calls with you and 2589 period.

21 During the interception period of TT26 comma agents
22 determined you and 2589 was the source of supply of
23 heroin for G. Green.

24 That's the portion of this that you were referring
25 to?

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1 A. Yes, sir. And then further it goes on through 7.
2 Q. Okay. Do you know whether or not there was a
3 warrant for the intercept on those phone calls?
4 A. That's what I'm looking for. And if it was -- I'm
5 pretty sure it's not.
6 Q. Did you ask me to when -- did you ask me to try and
7 get some information from the Drug Enforcement Agency?
8 A. Yes, sir.
9 Q. Okay. And did I send you this document right here
10 [indicates]?
11 A. Let me see.
12 Q. This is what's marked as Applicant's exhibit number
13 1.
14 [Whereupon, the witness is shown document]
15 A. Okay, yeah you sent me that.
16 Q. Okay. And did you find the answers that you needed
17 in that document?
18 A. It's highly redacted. I can't read anything that --
19 I can't read the original from my Rule 5, zero 28.
20 Q. So is there any information in here that a warrant
21 was ever placed on your phone?
22 A. It's not.
23 Q. Okay. Or to intercept phone calls?
24 A. [Indicates]
25 THE COURT REPORTER: Is that no?

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1 A. No, it's not.

2 Q. [Mr. Falk] Would you have pled guilty if you knew
3 that there possibly was a warrantless tracking device on
4 your phone or an interception of your phone calls?

5 A. I would not have.

6 Q. Why is that?

7 A. Because I know that's illegal. The Supreme Court
8 made a ruling last year in June that it's illegal to
9 monitor your cell phone without a warrant except in
10 emergency cases; somebody's life is in danger or it's a
11 kidnapping. And then they have 72 hours afterwards to
12 get that warrant after the arrest.

13 MR. LIMBAUGH: Objection, Your Honor; offering
14 legal opinions.

15 THE COURT: Sustained.

16 Q. [Mr. Falk] So it's your desire here to go forward
17 with this PCR application?

18 A. Yes, sir.

19 Q. And do you want your -- do you want me to try to
20 pursue this document, this exhibit 1 further to try and
21 see if I can get some of these redacted portions
22 disclosed?

23 A. You can. The way I feel about that if it was a
24 warrant I should have had it in my Rule 5 from the
25 beginning. And with them not producing one right now in

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1 none of the documents you requested I'm confident that
2 there's not one. That's why I'm willing to go forward.

3 Q. Do you want to seek a continuance in order to pursue
4 this further or do you want to resolve this today?

5 A. I want to resolve it today.

6 MR. FALK: No further questions.

7 THE COURT: Cross-Examination.

8 MR. LIMBAUGH: May it please the court, Your Honor?

9 THE COURT: Yes.

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Post-Conviction Relief-Gerald Green-Cross-Examination by Mr. Limbaugh
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1 CROSS-EXAMINATION

2 BY MR. LIMBAUGH:

3 Q. Good morning, Mr. Green.

4 A. Good morning.

5 Q. I think you said but do you remember how many times
6 you met with Ms. Runey before you took your plea?

7 A. In person only once.

8 Q. Okay. Did you have any other communications with
9 her, write letters, phone calls; that kind of thing?

10 A. Yeah -- her office did a county jail on a monitor.
11 The first day I talked to her I told her I was suspecting
12 that they was using an illegal device because a lawyer
13 had informed me that they was using that in the
14 neighborhood that I live at.

15 So I informed her that I believed it was an illegal
16 device that they used to monitor my phone. But I seen
17 her like, I mean when she talked to me on the monitor it
18 was like every two months.

19 And every time I speak with her I asked her did she
20 look into that. And she was like look into what? And I
21 been like do you remember what we talked about the last
22 time?

23 After about three times she referred me to a social
24 worker, I forgot her name, but she referred me to a
25 social worker working for the Public Defender's office

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1 and they was talking about putting me into a drug
2 program. And like I said eight months later that's when
3 she came and she said someone in the Solicitor's office
4 must have it in for you because somebody higher up is
5 pushing my Solicitor to not give me a program but to
6 sentence me to prison.

7 Q. So you said you got your discovery in this case, is
8 that correct?

9 A. Yeah, I do.

10 Q. Okay. And did Ms. Runey go over that with you
11 before your plea?

12 A. No, she didn't.

13 Q. No?

14 A. Not as far as I remember.

15 Q. I think you said on direct that she did review the
16 discovery with you. Is that accurate?

17 A. No. When I told you a week before my court date she
18 came to the county jail and she was telling me that the
19 Solicitor had a negotiated plea for 18 years.

20 And I told her no; I wasn't going to go for that. I
21 would go to trial. And she said she would go back. But
22 I never said she read over this with me.

23 Q. Okay. Do you recall your plea proceeding, the day
24 you took your plea?

25 A. Yes, I do.

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1 Q. Okay. Do you remember telling the Court that Ms.
2 Runey went over all the charges and the possible
3 punishments with you for those charges?

4 A. I don't recall that. I don't recall.

5 Q. Okay.

6 MR. LIMBAUGH: It should be on page 2 of the plea
7 transcript, Your Honor.

8 Q. [Mr. Limbaugh] Do you remember telling the Court
9 that you were getting a major benefit from pleading down
10 to a trafficking first?

11 A. I don't remember me telling the Court that. I
12 remember the Judge saying it would be a benefit but not
13 me saying it.

14 MR. LIMBAUGH: A moment's indulgence, Your Honor.

15 [Whereupon, Mr. Limbaugh reviews documents]

16 MR. LIMBAUGH: I'll move on.

17 Q. [Mr. Limbaugh] Do you remember telling Judge Dennis
18 that you were satisfied with Ms. Runey's representation
19 that day?

20 A. Yes, I do.

21 Q. Okay. Was it your decision to plead guilty that
22 day?

23 A. Well, me and Ms. Runey discussed it together.

24 Q. Okay.

25 A. Yeah, we -- she convinced me that I should go ahead

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1 and plead.

2 Q. And you told Judge Dennis that it was your decision
3 to plead guilty, is that correct?

4 A. Yes. I'm sure he asked me that and I agreed.

5 Q. Did you want to go to trial at any point?

6 A. Yes, when Ms. Runey told me that the negotiated plea
7 was for 18 years I told her I wanted to go to trial.

8 A. Okay.

9 A. She said she would take me off the docket for the
10 following week.

11 Q. Okay. You ultimately did take that plea though?

12 A. Ultimately.

13 Q. You remember Judge Dennis going over your right to a
14 trial and things of that nature?

15 A. The procedure, yes.

16 Q. Okay. And you agreed that you wanted to waive all
17 that and proceed to plea that day?

18 A. I did.

19 Q. Okay. And do you recall telling Judge Dennis that
20 you reviewed all of your other rights with Ms. Runey and
21 that you were waiving those as well?

22 A. Well, she -- he didn't -- when he said that I didn't
23 know at the time that I had a right to appeal that guilty
24 plea and I was never informed afterwards neither.

25 MR. LIMBAUGH: A moment's indulgence, Your Honor.

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1 [Whereupon, Mr. Limbaugh reviews documents]

2 Q. [Mr. Limbaugh] Oh, one final thing. You testified
3 earlier that in your Rule 5 that you were aware that your
4 phone was being tapped when you took the plea?

5 A. I was suspicious of it in which I spoke to Ms. Runey
6 from the first day I told to her I said I was under the
7 suspicion that they was monitoring my phone illegally and
8 I wanted her to look into in; in which I never got no
9 result.

10 Q. So even knowing, and I'm not saying that it
11 happened, but even knowing there was a possibly there was
12 a warrantless tap on your phone you still went forward
13 with the plea with that question still unresolved?

14 A. I knew it was a possibility because I brought it to
15 my attorney. But I was convinced to just go ahead. When
16 you're dealing with a public defender you know it's like
17 you get the minimal representation you know. And like I
18 said I brought it to her attention but nothing never came
19 out of what I said almost like I was just -- I don't
20 know.

21 MR. LIMBAUGH: That's all I have, Your Honor.

22 MR. FALK: No redirect.

23 THE COURT: All right. You may step down. Thank
24 you. You may call your next witness.

25 [Whereupon, the witness is excused and exits the

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July 24, 2019

1 witness stand]

2 MR. FALK: I call Ms. Runey to the stand.

3 THE COURT: Ms. Runey, please come forward.

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Gerald Cornell Green v State
Post-Conviction Relief-Martha Kent Runey-Direct Examination by Mr. Falk
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1 [Whereupon, Ms. Runey comes forward]

2 THE COURT: Yes, ma'am. Let Mr. Green get his
3 stuff gathered up here. You may return to Applicant's
4 table over there Mr. Green.

5 [Whereupon, Mr. Green complies]

6 THE COURT: Yes, ma'am. I'm going to ask you to
7 put your paperwork down and I'm going to ask you if you
8 could place your left hand on the Bible and raise your
9 right hand as the Clerk administers the oath.

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

12 THE COURT: Pull up real close to that microphone
13 and speak loudly, clearly, and slowly in order that we
14 can hear everything that you have to say. Let's start
15 with your full name please, ma'am.

16 THE WITNESS: Martha Kent Runey, R-U-N-E-Y.

17 THE COURT: Very good.

18 - - - - -

19 MARTHA KENT RUNEY,

20 Having been first duly sworn,

21 Was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. FALK:

24 Q. Ms. Runey, did you represent Mr. Green in these
25 proceedings?

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Post-Conviction Relief-Martha Kent Runey-Direct Examination by Mr. Falk
July 24, 2019

1 A. I did.

2 Q. Were you the only lawyer on his case?

3 A. I was.

4 Q. Okay.

5 MR. FALK: If I could approach?

6 Q. [Mr. Falk] I'm going to show you what we had marked
7 as Applicant's exhibits 1 and 2.

8 [Whereupon, the witness is shown documents]

9 Q. And can you verify that those were in fact two pages
10 from his Rule 5 materials?

11 A. They are.

12 Q. Okay. You see that on that exhibit -- I guess
13 you're looking at 2 and 3 but not 1 and 2. You're
14 looking at Applicant's exhibit 2 and 3 ---

15 A. --- 2 and 3.

16 Q. So on number 3 you see that paragraph, numerical
17 paragraph 2 in the middle of the page?

18 A. I do.

19 Q. And so did you ever find out -- was there ever any
20 type of warrant provided to you or any kind of
21 explanation as to how those phone calls were intercepted?

22 A. I was not provided with a warrant. I do have noted
23 in my file where I had a phone call with Detective Gill
24 who was with the City Police Department but I do not have
25 a warrant.

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Post-Conviction Relief-Martha Kent Runey-Direct Examination by Mr. Falk
July 24, 2019

1 Q. Okay. Do you know if a warrant was ever obtained?

2 A. I do not.

3 Q. Did Mr. Green discuss with you his concerns about --
4 you heard Mr. Green's testimony earlier?

5 A. I did. And I remember going over the discovery with
6 Mr. Green and we talked about these documents that were
7 included in the discovery and that if we did go to trial
8 that these -- this would certainly be an issue and what
9 we would do is have a suppression hearing at trial.

10 When I began to negotiate his case I went to him
11 with those negotiations and offers and recommendations
12 and did discuss that if he wanted to we could go to
13 trial.

14 Q. Okay.

15 MR. FALK: If I could approach one more time?

16 Q. [Mr. Falk] I'm going to show you Applicant's exhibit
17 number 1.

18 [Whereupon, the witness is shown document]

19 Q. This will take a second. If you could just sort of
20 thumb through there to the back. And that was
21 information that was provided pursuant to my FOIA
22 request.

23 If you could just look through there and see if any
24 of those documents, if you have ever seen any of them.

25 [Whereupon, the witness reviews documents]

Gerald Cornell Green v State
Post-Conviction Relief-Martha Kent Runey-Direct Examination by Mr. Falk
July 24, 2019

1 Q. Did you get any documents ---

2 A. --- I did not ---

3 Q. --- regarding a federal investigation?

4 A. I did not.

5 Q. Okay. So all the Rule 5 materials you got were just
6 based on the Charleston Police Department and Charleston
7 County Sheriff's Office is that correct?

8 A. That's correct other than those 2 other previous
9 documents.

10 Q. Right. Okay.

11 MR. FALK: I believe I have no further questions.

12 THE COURT: Any cross-examination?

13 MR. LIMBAUGH: Yes sir, Your Honor.

14 THE COURT: Very good.

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Gerald Cornell Green v State
Post-Conviction Relief-Martha Kent Runey-Examination by the Court
July 24, 2019

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EXAMINATION

BY THE COURT:

Q. Ms. Runey, I think as I understand your testimony you discussed with Mr. Green the issues with regard to suppression hearings and in the event he wanted to go to trial that there could be a suppression hearing to determine whether or not they could suppress the drugs?

A. I did.

Q. And if you had gone to trial as opposed to working out a plea would you have looked into the validity of the search warrant?

A. I would have.

Q. Was it in his best interest to pursue these plea negotiations in view of the fact I understand that he was subject to LWOP pursuant prior to this plea?

A. He was.

Q. And based on your experience with the Charleston Solicitor's office had you not negotiated this plea do you anticipate that there is a very real possibility they would have noticed him for LWOP?

A. I do.

Q. Life without parole?

A. I do.

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

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Post-Conviction Relief-Martha Kent Runey-Examination by the Court
July 24, 2019

1 MR. LIMBAUGH: But...

2 THE COURT: I thought you said you did not have any
3 cross-examination?

4 MR. LIMBAUGH: I don't now, Your Honor.

5 THE COURT: All right.

6 MR. LIMBAUGH: I would just like to note that if
7 Your Honor would like to look on pages 8 through 11;
8 that's where the facts are read to the plea ---

9 THE COURT: --- I've already read that ---

10 MR. LIMBAUGH: --- and the Applicant agrees on page
11 12 ---

12 THE COURT: --- I've already read that.

13 MR. LIMBAUGH: But also that the State rests, Your
14 Honor.

15 THE COURT: I could have sworn you said I don't
16 have any questions. What did you say?

17 MR. LIMBAUGH: I said I do, Your Honor.

18 THE COURT: I thought you said you don't.

19 MR. FALK: It's on the record.

20 MR. LIMBAUGH: My apologies; I'll speak more
21 clearly, Your Honor.

22 THE COURT: All right. Very good.

23 [Whereupon, the witness is excused and exits the
24 witness stand]

25 THE COURT: You may call your next witness.

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1 MR. FALK: We have no further witnesses.

2 THE COURT: All right.

3 MR. FALK: Your Honor, I don't know if I need to do
4 anything to lay a better foundation for that FOIA
5 response. I could testify that it was sent to me.

6 THE COURT: I don't think so. I think that pretty
7 much speaks for itself.

8 MR. FALK: That's what I thought.

9 THE COURT: You don't have any objection to that?

10 MR. LIMBAUGH: No objection, Your Honor.

11 THE COURT: All right. I'll be glad to hear you in
12 summation.

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Gerald Cornell Green v State
Post-Conviction Relief Hearing-Closing Arguments-Remarks by Mr. Falk
July 24, 2019

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CLOSING ARGUMENTS

BY MR. FALK:

Your Honor, my client testified that he had concerns about whether or not there was a warrantless tap on his phone. And he had testified that on several occasions he had talked to his lawyer about trying to pursue that.

And his testimony right up there just a few minutes ago he said that had he known that there was a warrantless tap on his phone he would not have pled guilty. And I believe that he was pleading guilty on that day with incomplete knowledge as to what his rights would have been.

THE COURT: Yes, sir.

Gerald Cornell Green v State
Post-Conviction Relief Hearing-Closing Arguments-Remarks by Mr. Limbaugh
July 24, 2019

1 CLOSING ARGUMENTS

2 BY MR. LIMBAUGH:

3 May it please the court, Your Honor? Essentially my
4 argument goes to the line with the questioning that you
5 just made to Ms. Runey there that she advised Applicant
6 that she could have, that they could have suppression
7 hearings if it did go to trial. She advised him that
8 they could challenge those and try to get the wire taps
9 of his phone thrown out and any evidence resulting there
10 from.

11 Applicant was facing significant time; potentially a
12 life sentence if he went to trial on these charges.
13 According to that Ms. Runey went and looked into plea
14 negotiations for him and got him a fairly favorable deal
15 in this case, which Applicant as you can see from the
16 transcript agreed to and agreed to the facts.

17 So the State says that the Applicant hasn't met his
18 burden of proof and his plea was freely and voluntarily
19 entered into, Your Honor.

20 THE COURT: All right.

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Gerald Cornell Green v State
Post-Conviction Relief Hearing-Ruling by the Court
July 24, 2019

1 RULING BY THE COURT

2 THE COURT: Yes, sir. I'm going to ask that you
3 prepare an order consistent with that presentation. But
4 in addition to that it's clear from looking at the
5 transcript and I'm going to ask that the order reflect in
6 the transcript specifically where the Court asks Mr.
7 Green: And you understand you give up your right to a
8 jury trial, which includes a right to suppression, the
9 right to confront witnesses against you and the right to
10 remain silent.

11 All those things were explained to Mr. Green and he
12 waived those. And that happens when you enter a plea.
13 He specifically talked about each one of the indictments
14 and asked him if he was pleading guilty and he did.

15 One of the things that is I think needs to be put in
16 the order is that you can't come forward and just say
17 that there might have been a warrantless arrest. It's
18 the burden upon the Applicant to establish that.

19 I anticipate that had Mr. Gill particularly from the
20 Charleston Police Department been here he would have been
21 able to answer those questions. And that burden rests on
22 the Applicant; not on the State.

23 And based on that I deny the Motion for Post-
24 Conviction Relief, which probably ultimately will work to
25 your benefit Mr. Green. Good luck to you.

Gerald Cornell Green v State
Post-Conviction Relief Hearing-Ruling by the Court
July 24, 2019

1 MR. LIMBAUGH: Thank you, Your Honor.
2 *****END OF TRANSCRIPT OF RECORD*****
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Gerald Cornell Green v State
Certificate of the Court Reporter
July 24, 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 24th day of July, 2019.

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

November 11, 2019


Joyce C. Rueger, CVR-M
Court Reporter



U.S. Department of Justice
Drug Enforcement Administration
FOI/Records Management Section
8701 Morrisette Drive
Springfield, Virginia 22152

Case Number: 18-00433-P

MAY 15 2019

Subject: Green, Gerald Cornell

James Falk
Falk Law Firm, LLC.
P.O. Box 1058
Charleston, South Carolina 29402
jfalklaw@gmail.com

Dear Mr. Falk:

This letter responds to your Freedom of Information Act/Privacy Act request dated June 11, 2018, addressed to the Drug Enforcement Administration (DEA), Freedom of Information/Privacy Act Unit, seeking access to information regarding the above subject.

After reviewing your request, we conducted a search for responsive records pertaining to the above subject. To search for responsive records, we queried the DEA Investigative Reporting and Filing System (IRFS). IRFS is the system of records that contains all administrative, general, and investigative files compiled by DEA for law enforcement purposes. As a result of our query, we were able to identify records pertaining to the subject of your request.

Certain materials identified during the processing of your request will be released to you. The portions withheld are exempt from disclosure pursuant to the FOIA, 5 U.S.C. § 552, and/or the PA, 5 U.S.C. § 552a. Please refer to the list enclosed with this letter that identifies the authority for withholding the deleted material, which is indicated by a mark appearing in the block next to the exemption. An additional enclosure with this letter explains these exemptions in more detail. The agency documents you requested are enclosed with this letter.

The rules and regulations of the DEA applicable to FOIA requests are contained in the Code of Federal Regulations, Title 28, Part 16, as amended. They are published in the Federal Register and are available for inspection by members of the public.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.



Case Number: 18-00433-P

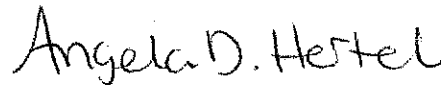
Page 2

You may contact our FOIA Public Liaison at 202-307-7596 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following website: <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you have any questions regarding this letter, you may contact our Customer Service Hotline at 202-307-7596.

Sincerely,



Angela D. Hertel, Acting Chief
Freedom of Information/Privacy Act Unit
FOI/Records Management Section

Case Number: 18-00433-P

Page 3

Number of pages withheld: 6

Number of pages released: 22

APPLICABLE SECTIONS OF THE FREEDOM OF INFORMATION AND/OR PRIVACY ACT:**Freedom of Information Act
5 U.S.C. 552**

☐ (b)(1)	☐ (b)(5)	☒ (b)(7)(C)
☐ (b)(2)	☒ (b)(6)	☐ (b)(7)(D)
☐ (b)(3)	☐ (b)(7)(A)	☒ (b)(7)(E)
☐ (b)(4)	☐ (b)(7)(B)	☒ (b)(7)(F)

**Privacy Act
5 U.S.C. 552a**

☐ (d)(5)	☐ (k)(2)
☒ (j)(2)	☐ (k)(5)
☐ (k)(1)	☐ (k)(6)

Enclosures

EXPLANATION OF EXEMPTIONS
SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute- (A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and (B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

U.S. Department of Justice
Drug Enforcement Administration

DEFENDANT DISPOSITION REPORT

This form MUST be completed with typewriter. Read instructions on reverse before completing.

1. SUBMISSION ☒ Original ☐ Revised	2. GROUP NO. (b)(6);(b)(7)(C);(b)(7)(F)	3. PROGRAM CODE (b)(7)(E)	4. FILE NUMBER (b)(7)(E)	5. CASE G-DEP IDENTIFIER (b)(7)(E)
6. FILE TITLE (b)(6);(b)(7)(C)			7. DEFENDANT'S NAME (Last, First, Middle) GREEN, Gerald Cornell	
8. NAME ON ARREST DEA-202 (Only if different from item 7)			9. NADDIS NUMBER (b)(7)(E)	10. DATE PREPARED 11-30-2016

PROSECUTION DATA

11. JURISDICTION ☐ Federal ☒ State		12. PLEA BARGAINING INVOLVED ☒ Yes ☐ No		13. PRIOR DRUG CONVICTION ☐ Federal ☒ State ☐ Both ☐ None	
14. DISPOSITION (Must be completed in all instances)		DATE OF DISPOSITION 07-20-2016		15. REASON DISMISSED OR DECLINED	
S ☐ STATE FUGITIVE (See 6232) A ☐ POST-CONVICTION FUGITIVE (See 6232) B ☐ DECLINED (Complete item 15) C ☐ ACQUITTED (Go to item 16) D ☐ DISMISSED (Complete item 15) IF CONVICTED 1 ☒ PRISON 2 ☐ PROBATION 5 ☐ FINE \$ 9 ☐ SUSPENDED 0 ☐ SPECIAL PAROLE		TERM/FINE 144 Mos. Mos. Mos. Mos.		1 ☐ DUE PROCESS ISSUES 2 ☐ INSUFFICIENT EVIDENCE 3 ☐ UNEXTRADICTABLE FUGITIVE 4 ☐ PROTECT INFORMANT 5 ☐ SPEEDY TRIAL ACT 6 ☐ DECEASED 10 ☐ COMBINED IN OTHER CASE 11 ☐ REFERRED FOR OTHER PROSECUTION 7 ☐ OTHER (Explain in Remarks)	

FBI NCIC DATA

16. NAME (As Appears on FD-249) GREEN, Gerald Cornell			17. NAME, ADDRESS, ORI NUMBER OF FD-249 CONTRIBUTOR ORI#: (b)(7)(E) - Charleston, SC																																																																																																						
18. DATE OF BIRTH 09-28-1964	19. FBI NUMBER 250079X2	20. DATE OF ARREST 11-16-2015																																																																																																							
21. CHARGES AS REPORTED ON FD-249			22. NEW CHARGES NOT PREVIOUSLY REPORTED ON FD-249																																																																																																						
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* Check "C" for Convicted, "A" for Acquitted, or "D" for Dismissed

23. REMARKS

Information Only

On July 20, 2016, Gerald Cornell GREEN pled guilty to Trafficking Heroin, Possession of Cocaine, three (3) counts of Possession of Crack Cocaine, and three (3) counts of Possession of Heroin. On that same date, the Honorable R. Markley Dennis, Circuit Court Judge in the State of South Carolina, sentenced GREEN to a term of one hundred forty-four (144) months imprisonment and a \$283.25 fine.

(b)(6);(b)(7)(C);(b)(7)(F)

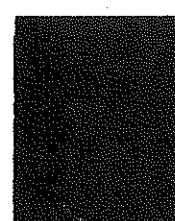
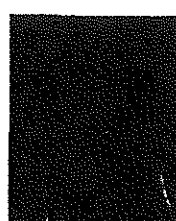
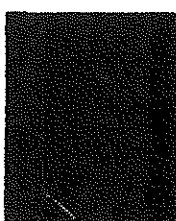
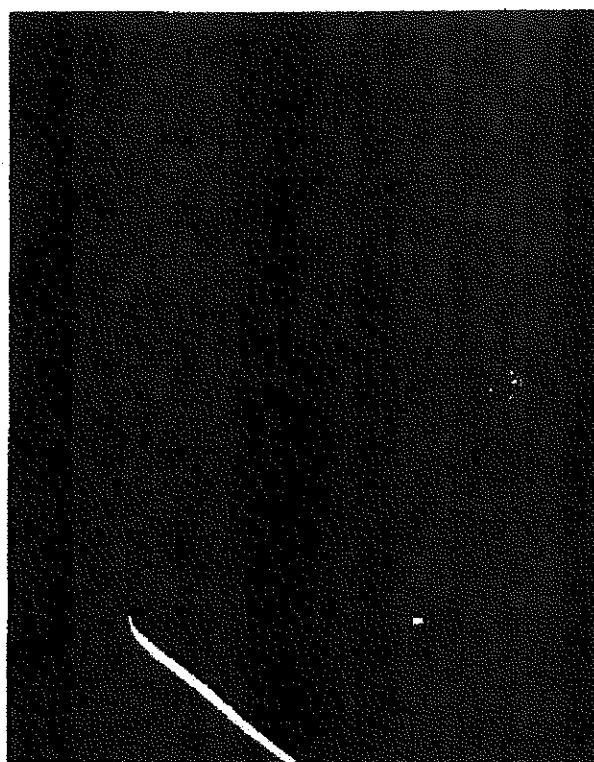
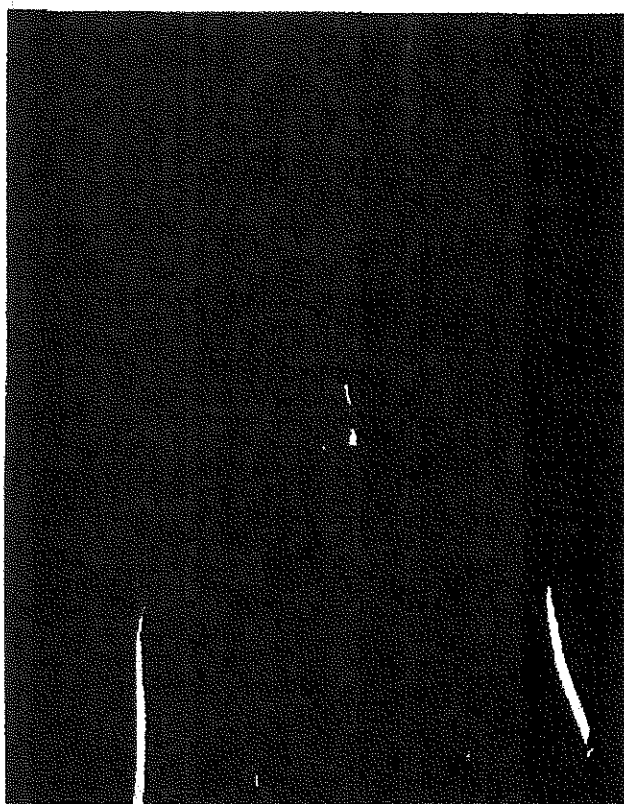
U.S. Department of Justice
Drug Enforcement Administration

PERSONAL HISTORY REPORT

1. File Title (b)(6);(b)(7)(C)		2. File Number (b)(7)(E)		3. Program Code #		4. Group Number (b)(6);(b)(7)(C);(b)(7)(F)	
5. CASE # (b)(7)(E)		6. Date Prepared 11-16-2015		7. Purpose of Submission Arrest - Other U.S. Law Enforcement Agency			
I. G-DEP DESCRIPTION (Complete for all G-DEP and Arrest Submissions.) Agents Manual 622							
8. Submission Information Only (b)(7)(E)		9. Subject's Principal Controlled Substance/Commodity Use Letter-Number Code (See Agents Manual) Heroin					
10 - 18. Subject							
10. Subject Name Last First Middle GREEN Gerald Cornell			11. Qualitative Characterization (b)(7)(E)			12. Date of Birth 09-28-1964	
13. NADDS No. NEGATIVE		14. FBI No. 250079X2		15. Alternate Date of Birth			
16. Misc Numbers (e.g., TICS, Social Networking, Email, etc.)							
OTHER AGENCY IDENTIFICATION NUMBER (b)(7)(E)							
17. Social Security 251-35-0813							
18 - 27. Description							
18. Place of Birth (City, State/Country) Country USA State South Carolina city			19. Citizenship (Country) USA			20. Alien Status N/A Alien Registration No.	
21. Race Black	22. Ethnicity Non-Hispanic	23. Sex Male	24. Color Hair Black	25. Height 5 ft 7 in	26. Color Eyes Brown	27. Weight 144 lbs	
28. Alias Name							
Last Name GERRY		First Name			Middle Name		
29. Identifying Characteristics (Scars, Tattoos, Marks, Physical Defects, etc.)							
Category		Characteristic			Description		
30. Address							
Street			City	State & Country		Zip Code	
(Residence) 114 Jamesford ST			Goose Creek	SC USA		29445	
(Residence) 27 Norman ST #A			Charleston	SC USA		29403	
31. Telephone Number (Include Area Code)							
Phone Type Cellular		Number 843-291-8140			Extension		
32. Occupation							
Occupation Unemployed		32a. Registrant? No					
33. Employer							
Name and Address				Telephone Number (Include Area Code)			
34. Vehicle Information							
Year/Make/Model	Color	Tag #	State/Country	Body Style	VIN Number		

(b)(6);(b)(7)(C)		(b)(7)(E)			
35. Driver's License					
Driver's License No.	Issue Date	Issuing State/Country	Expiration Date	Name on License	
008363086		South Carolina / USA		GREEN, Gerald Cornell	
36. Passport					
Passport Number	Issue Date	Issuing Country	Expiration Date	Name on Passport	
37. Family Information					
Last, First, Middle Name	Relationship	Age	Address (no. Street, Unit, State/Country)	Phone Number	
(b)(6);(b)(7)(C)	Brother				
38. Source of Supply					
Last Name	First Name	Middle Name	NADDIS No.		
(b)(6);(b)(7)(C)					
39. Criminal Associates					
Last Name	First Name	Middle Name	NADDIS No.		
(b)(6);(b)(7)(C)			(b)(7)(E)		
II. ARREST (Complete for all Arrest Submissions.) Agents Manual 6641					
40. Type of Arrest Probable Cause	41. JABS TRACES ID (Arrest Number) SAR10018294		44. Place of Arrest		
	42. Date of Arrest 11-16-2015		a. City Charleston	c. Country USA	
	43. Arresting Agency CPD		b. County Charleston	State South Carolina	
45. Is FinCEN Check Completed Yes		46. FinCEN Check Completed Date 11-30-2015			
47. Is DNA Sample Taken?		48. Armed at Arrest No			
49. If Armed (Enter Number of Weapons by Type)					
Weapon Type			Serial Number		
Summary					
TYPE	Handgun	Shotgun	Rifle	Lethal Cutting Instrument	Other Weapon
Semi-Auto	0	0	0		
Full-Auto	0	0	0		
Other	0	0	0	0	0
50. Type of Violation Charged? (Possession, Sale, Conspiracy, etc.)					
Poss with Intent		51. Major Drug Charged (Cocaine, Heroin, etc.) (b)(7)(E) Heroin			
III. Information Required by SARI to Create a Criminal Organization NADDIS Subject					
52-57. Associated Criminal Organization					
52. Type of Criminal Organization	53. Classification of Criminal Organization		54. Is this a HQ Approved PTO Case Yes		
55. Name of Associated Criminal Organization	56. NADDIS Number		57. Is this an Approved OCOETP Case Yes		
IV. FUGITIVE DECLARATION (Complete if defendant not arrested within 10 days of the issuance of the Arrest Warrant)					

(b)(6);(b)(7)(C)		(b)(7)(E)	
58. Type of Declaration	59. Apprehension Responsibility (Date Delegated)	60. NIC Number	61. USMS Office Holding Warrant
		62. Court Docket Number	63. Name of Judge or Magistrate
64. Date of Issue Judicial District of Issue		65. DEA Agent Contact Name Phone No. with Area Code Extension	
66. Type of Violation Charged? (Possession, Sale, Conspiracy, etc.)	67. U.S. Code (Title & Section)	68. Armed at Arrest	69. Should be considered armed & dangerous
	70. Basis for Other Caution (State Basis)		71. Interpol Notice
	72. DEA Website		
73. Remarks On November 18, 2015, the DEA Charleston Resident Office (CRO) and the Charleston Police Department (CPD) conducted an arrest operation of Gerald Cornell GREEN. The CRO began conducting surveillance on GREEN, and after GREEN met with (b)(6);(b)(7)(C) agents stopped GREEN. Agents located approximately seven (7) grams of heroin on GREEN's person, and CPD charged GREEN with Trafficking Heroin.			
OTHER ARREST			
(b)(6);(b)(7)(C);(b)(7)(F)			

BEST AVAILABLE COPY**Sheriff Al Cannon Detention Center****0000805490 Name: GREEN, GERALD CORNELL****Date of Birth: 09/28/64 Booking Date: 11/16/15****Race: B Sex: M Height: 5'7"**

10D100818517

BEST AVAILABLE COPY

STATE USAGE

NON-RECORD

COMMISSION

ADDITIONAL USE

EMULATION

SCAR

FD-240 (Rev. 3-1-10)

STATE USAGE

AGE NAME FIRST NAME MIDDLE NAME SUFFIX

GREEN, GERALD CORNELL

SIGNATURE OF PERSON FINGERPRINTED

Gerald Green

ALIAS/MAIDEN

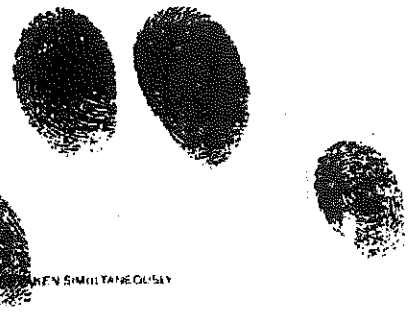
LAST NAME FIRST NAME MIDDLE NAME SUFFIX

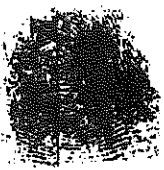
GREEN, GERALD

FBI IDENTIFICATION

251-35-0813

LEAVE BLANK

PRINT	DATE OF BIRTH	SEX	RACE	HEIGHT	WEIGHT	POUNDS	HAIR
250079X2	(b)(7)(E)	09-28-1964	M	B	507	144	BRO BRC
							
							
							

10D100818517		GREEN, GERALD CORNELL		MIDDLE NAME		SID NUMBER		FBI NUMBER	
DATE PRINTED		SIGNATURE OF OFFICIAL TAKING PRINTS		ID NUMBER		CONTRIBUTION (OS)		250079X2	
11/16/2015		(b)(6);(b)(7)(C);(b)(7)(F)				(b)(7)(E)			
									
									



CONTRACT

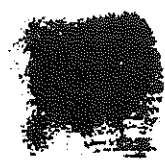
250079X2

(b)(7)(E)

RECEIVED
JAN 11 1964
U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C.

FD-884 (7-02-10) (GSA) U.S. GOVERNMENT PRINTING OFFICE: 07-07-2011 10:03:47

FEDERAL BUREAU OF INVESTIGATION, UNITED STATES DEPARTMENT OF JUSTICE
1000 CUSTER HOLLOW ROAD, CLARKSBURG, WEST VIRGINIA 26306

THUMB	INDEX	MIDDLE	RING	PINKY
				

FD-884 (7-02-10) (RM) U.S. GOVERNMENT PRINTING OFFICE: 07/07/2011 10:03:47

FEDERAL BUREAU OF INVESTIGATION, UNITED STATES DEPARTMENT OF JUSTICE
1000 CUSTER HOLLOW ROAD, CLARKSBURG, WEST VIRGINIA 26306

THUMB



INDEX



MIDDLE



RING



SMALL



**FEDERAL BUREAU OF INVESTIGATION, UNITED STATES DEPARTMENT OF JUSTICE
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION, CLARKSBURG, WV 26306**

The FBI's acquisition, preservation, and exchange of identification information is generally authorized under 28 USC 534. This FD-249 is to be used for criminal justice purposes, such as incident to arrest and incarcerations. The Applicant form (FD-258) contains applicable Paperwork Reduction Act and Privacy Act notices and should be used for noncriminal justice purposes. A Social Security Account Number (SSAN) is helpful to keep records accurate because other people may have the same name and birth date. Pursuant to the Federal Privacy Act of 1974 (5 USC 552a), any Federal, State, or local government agency which requests an individual to disclose his/her SSAN is responsible for informing the person whether disclosure is mandatory or voluntary, by what authority or other authority the SSAN is needed, and what uses will be made of it. FD-249 (Rev. 3-1-10)

JUVENILE FINGERPRINT SUBMISSION YES ☐ TREAT AS ADULT YES ☐		DATE OF ARREST MM DD YY 11-16-2015		(b)(7)(E) CONTRIBUTOR CHARLESTON POLICE DEPT SIGNATURE NAME FIRST LAST DESAEN ☐	
SEND COPY TO CENTER OR: (b)(7)(E);(b)(7)(F)		DATE OF OFFENSE MM DD YY 11-16-2015		PLACE OF BIRTH STATE OR COUNTRY SC	
MISCELLANEOUS NUMBER		SCARS, MARKS, TATTOOS, AND EMPLOYERS RESIDENCE COMPLETE ADDRESS JAMESFORD ST GOOSE CREEK, SC			
OFFICIAL TAKING FINGERPRINTS NAME OR NUMBER: (b)(6);(b)(7)(C);(b)(7)(F)		LOCAL IDENTIFICATION REFERENCE 2015019745		PHOTO AVAILABLE YES ☒ PALM PRINTS TAKEN YES ☒	
EMPLOYER IF U.S. GOVERNMENT INDICATE SPECIFIC AGENCY IF MILITARY, LIST BRANCH OF SERVICE AND SERIAL NO.				OCCUPATION UNEMPLOYED	
CHARGE CITATION 1 2361 HEROIN ETC TRAFFIC DRUGS>4G <14G-1ST OFF 2015A1010205063 11 16 2015 2 3				DISPOSITION 1 2 3	
ADDITIONAL				ADDITIONAL	
ADDITIONAL INFORMATION-BASIS FOR CATION 0000805490				STATE BUREAU STAMP	

U.S. Department of Justice
Drug Enforcement Administration

(b)(6);(b)(7)(C);(b)(7)(F)

REPORT OF INVESTIGATION

Page 1 of 1

1. Program Code	2. Cross File	Related Files	3. File No. (b)(7)(E)	4. G-DEP Identifier (b)(7)(E)
5. By: SA At: Charleston RO	☐ ☐ ☐ ☐ ☐		6. File Title (b)(6);(b)(7)(C)	
7. ☐ Closed ☐ Requested Action Completed ☐ Action Requested By:			8. Date Prepared 11-30-2016	
9. Other Officers:				
10. Report Re: Plea and Sentencing of Gerald Cornell GREEN on July 20, 2016.				

DETAILS

1. Reference is made to all previous reports of investigation written to this case file and the CPD file 15-19405. Specific reference is made to a DEA-6 written to this case file by TFO (b)(6);(b)(7)(C);(b)(7)(F) dated 11-19-2015, Re: Arrest of Gerald GREEN on November 16, 2015.

2. On July 20, 2016, Gerald Cornell GREEN pled guilty to Trafficking Heroin, Possession of Cocaine, three (3) counts of Possession of Crack Cocaine, and three (3) counts of Possession of Heroin. On that same date, the Honorable R. Markley Dennis, Circuit Court Judge in the State of South Carolina, sentenced GREEN to a term of one hundred forty-four (144) months imprisonment and a \$283.25 Fine.

INDEXING

1. Gerald Cornell GREEN - NADDIS (b)(7)(E) REMARKS: On 07/20/2016, GREEN pled guilty and was sentenced to a term of one hundred forty-four (144) months imprisonment.

11. Distribution:	(b)(6);(b)(7)(C);(b)(7)(F)	13. Date 11-30-2016
Division		
District		15. Date 12/2/16
Other SARI		
DEA Form - 6 (Jul. 1998)		

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Page 13 of 28

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(b)(6); (b)(7)(C); (b)(7)(E); (b)(7)(F); (b)(3); 18 U.S.C. 2510

of the Freedom of Information and Privacy Act

U.S. Department of Justice
Drug Enforcement Administration

REPORT OF INVESTIGATION <i>(Continuation)</i>	1. File No.	2. G-DEP Identifier
	(b)(7)(E)	(b)(7)(E)
4. Page 2 of 2	3. File Title	
5. Program Code	(b)(6);(b)(7)(C)	
6. Date Prepared		
12-01-2015		

INDEXING

(b)(6);(b)(7)(C);(b)(7)(E)

2. Gerald Cornell GREEN - NADDIS (b)(7)(E) MISCELLANEOUS: (PN) 843-291-6140

Page 15 of 28

Withheld pursuant to exemption

(b)(6);(b)(7)(C);(b)(7)(E);(b)(7)(F);(b)(3);18 USC 2610

of the Freedom of Information and Privacy Act

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Withheld pursuant to exemption

(b)(6);(b)(7)(C);(b)(7)(E);(b)(7)(F);(b)(8);16 U.S.C. 2510

of the Freedom of Information and Privacy Act

U.S. Department of Justice
Drug Enforcement Administration

REPORT OF INVESTIGATION

Page 1 of 3

(b)(6);(b)(7)(C)
(b)(7)(F)

1. Program Code	2. Cross File	Related Files	3. File No.	4. G-DEP Identifier
			(b)(7)(E)	(b)(7)(E)
5. By [redacted] TFO At: Charleston RO	☐ ☐ ☐ ☐		6. File Title	
7. ☐ Closed ☐ Requested Action Completed ☐ Action Requested By:			(b)(6);(b)(7)(C)	
9. Other Officers See paragraph #10			8. Date Prepared 11-03-2015	

10. Report Re: Surveillance of (b)(6);(b)(7)(C) Gerald Cornell GREEN, (b)(6);(b)(7)(C)
(b)(6);(b)(7)(C) on October 29, 2015.

SYNOPSIS

On October 29, 2015, the DEA Charleston Resident Office (CRO) conducted surveillance on (b)(6);(b)(7)(C)

(b)(6);(b)(7)(C) Gerald Cornell GREEN [hereinafter referred to as G. GREEN], and
(b)(6);(b)(7)(C)

DETAILS

1. Reference is made to all other reports written to this case file.

(b)(6);(b)(7)(C);(b)(3); 18 U.S.C. 2510

11. Distribution:
Division

District

Other SARI

DEA Form - 6
(Jul. 1998)

13. Date
12-22-2015

(b)(6);(b)(7)(C);(b)(7)(F)

15. Date

12/24/15

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Drug Enforcement Administration

REPORT OF INVESTIGATION (Continuation)	1. File No. (b)(7)(E)	2. G-DEP Identifier (b)(7)(E)
	3. File Title (b)(6);(b)(7)(C)	
	4. Page 2 of 3	
5. Program Code		6. Date Prepared 11-03-2015

McDonald's located near I-95. Agents then established surveillance on the McDonald's/gas station near I-95.

(b)(6);(b)(7)(C);(b)(7)(F);(b)(3) 18 U.S.C. 2510

(b)(6);(b)(7)(C)
(b)(7)(F)

8. On October 29, 2015, at approximately 10:22 PM, TFO (b)(6);(b)(7)(C);(b)(7)(F) and S/A (b)(6);(b)(7)(C);(b)(7)(F) observed a black Chevrolet Tahoe, being driven by a unknown black male, pull into the gas station and park at a gas pump.

9. On October 29, 2015, at approximately 10:23 PM, S/A (b)(6);(b)(7)(C);(b)(7)(F) TFO (b)(6);(b)(7)(C);(b)(7)(F) observed a black male exit from the Honda Fit, later identified as Gerald GREEN, and enter the McDonald's. At that time, S/A (b)(6);(b)(7)(C);(b)(7)(F) observed (b)(6);(b)(7)(C) walking towards the Chevrolet Tahoe. S/A (b)(6);(b)(7)(C);(b)(7)(F) observed (b)(6);(b)(7)(C) open the passenger door of the Tahoe and take something off of the passenger seat, and walk away from the vehicle. After (b)(6);(b)(7)(C) walked away from the vehicle, the driver opened the driver door and picked up something off of the passenger seat. (b)(6);(b)(7)(C) walked to the Honda Fit and sat in the front seat. The driver of the Tahoe then proceeded to get gas, and at approximately 10:24 PM the Tahoe exited the parking lot of the gas station. TFO (b)(6);(b)(7)(C);(b)(7)(F) observed the Tahoe exiting the gas station and followed behind the Tahoe and observed that the Tahoe was bearing South Carolina license plate: (b)(6);(b)(7)(C) At approximately 10:26 PM, S/A

DEA Form - 6a
(Jul 1996)

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U.S. Department of Justice
Drug Enforcement Administration

REPORT OF INVESTIGATION

(Continuation)

4. Page 3 of 3

5. Program Code

1. File No

(b)(7)(E)

2. G-DEP Identifier

(b)(7)(E)

3. File Title

(b)(6);(b)(7)(C)

6. Date Prepared

11-03-2015

(b)(6);(b)(7)(C);
(b)(7)(F)

(b)(6);(b)(7)(C);(b)(7)(F) observed the Honda Fit exiting the parking lot of the gas station. TFO [redacted] followed the Tahoe, until it made a right turn onto Bishop Street at approximately 10:27 PM.

(b)(6);(b)(7)(C);(b)(7)(F)

INDEXING

(b)(6);(b)(7)(C);(b)(7)(E)

2. Gerald Cornell GREEN - NADDIS

(b)(7)(E)

(b)(6);(b)(7)(C);(b)(7)(E)

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Withheld pursuant to exemption

(b)(6), (b)(7)(C), (b)(7)(E), (b)(7)(F), (b)(3); 18 U.S.C. 2510

of the Freedom of Information and Privacy Act

U.S. Department of Justice
Drug Enforcement Administration

REPORT OF INVESTIGATION <i>(Continuation)</i>	1. File No	2. G-DEP Identifier
	(b)(7)(E)	(b)(7)(E)
	3. FBI File	
	(b)(6);(b)(7)(C)	
4. Page 2 of 2		
5. Program Code	6. Date Prepared 10-26-2015	

(b)(6);(b)(7)(C);(b)(7)(E)

2. Gerald Cornell GREEN - NADDIS
6140

(b)(7)(E)

MISCELLANEOUS: (PN) 843-291-

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Withheld pursuant to exemption

(b)(6), (b)(7)(C), (b)(7)(E), (b)(7)(F), (b)(8), 18 U.S.C. 2610

of the Freedom of Information and Privacy Act

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Withheld pursuant to exemption

(b)(1)(E); (b)(1)(C); (b)(1)(E); (b)(1)(F); (b)(3); 18 U.S.C. 2510

of the Freedom of Information and Privacy Act

INCIDENT/INVESTIGATION REPORT

Agency Name Charleston Police Department		INCIDENT/INVESTIGATION REPORT				Case# 15-19745			
ORI (b)(7)(E)		Location of Incident Ward St/norman St, Charleston SC 29403-		Premise Type Highway/road/alley	Zone/Tract 128	Date / Time Reported 11/16/2015 14:14 Mon			
						Last Known Secure 11/16/2015 14:14 Mon			
						At Found 11/16/2015 14:14 Mon			
INCIDENT DATA	#1	Crime Incident(s) Drug / Narcotics Violation 35A	(Com)	Weapon / Tools		Activity P			
				Entry	Exit	Security			
	#2	Crime Incident	()	Weapon / Tools		Activity			
				Entry	Exit	Security			
	#3	Crime Incident	()	Weapon / Tools		Activity			
				Entry	Exit	Security			
MO									
VICTIM	# of Victims /		Type: SOCIETY/PUBLIC		Injury:				
	VI		Victim/Business Name (Last, First, Middle) City Of Charleston		Victim of Crime # 1	DOB Age	Race Sex Relationship To Offender Resident Status Military Branch/Status		
	Home Address					Home Phone			
	Employer Name/Address					Business Phone		Mobile Phone	
	VYR	Make	Model	Style	Color	Lic/Is	VIN		
CODES: V- Victim (Denote V2, V3) O = Owner (if other than victim) R = Reporting Person (if other than victim) Type: LAW ENFORCEMENT Injury:									
OTHERS INVOLVED	CO		Name (Last, First, Middle) (b)(6);(b)(7)(C);(b)(7)(F)		Victim of Crime #	DOB Age	Race Sex Relationship To Offender Resident Status Military Branch/Status		
	Home Address (b)(6);(b)(7)(C);(b)(7)(F)					Home Phone			
	Employer Name/Address					Business Phone		Mobile Phone	
	Type:		Injury:						
	CO		Name (Last, First, Middle)		Victim of Crime #	DOB Age	Race Sex Relationship To Offender Resident Status Military Branch/Status		
Home Address					Home Phone				
Employer Name/Address					Business Phone		Mobile Phone		
1 = None 2 = Burned 3 = Counterfeit / Forged 4 = Damaged / Vandalized 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown ("OJ" = Recovered for Other Jurisdiction)									
PROPERTY	VI #	Code	Status From To	Value	OJ	QTY	Property Description	Make/Model	Serial Number
Officer/ID#		(b)(6);(b)(7)(C);(b)(7)(F)							
Invest ID#		(0)		Supervisor		(b)(6);(b)(7)(C);(b)(7)(F)			
Complainant Signature		Case Status Pending Active		Case Disposition:		Page 1			
Printed By		(b)(6);(b)(7)(C);(b)(7)(F)		Sys# 136052		11/16/2015 15:57:19			

Incident Report Suspect List

Charleston Police Department

OCA: 15-19745

Name (Last, First, Middle) GREEN, GERALD CORNELL						Also Known As				Home Address JAMESFORD ST GOOSE CREEK, SC 29445 843-824-0995			
Business Address UNEMPLOYED.													
DOB [REDACTED]	Age 51	Race B	Sex M	Eth N	Hgt 507	Wgt 144	Hair BLK	Eye BRO	Skin DRK	Driver's License / State. [REDACTED]			
Scars, Marks, Tattoos, or other distinguishing features													
Reported Suspect Detail		Suspect Age		Race	Sex	Eth	Height		Weight		SSN		
Weapon, Type		Feature		Make		Model		Color		Caliber		Dir of Travel Mode of Travel	
Veh Yr/Make/Model				Drs	Style		Color		Lic/St		VIN		
Notes							Physical Char						

Incident Report Related Property List

Charleston Police Department

OCA: 15-19745

1 Property Description HEROIN		Make HEROIN		Model		Caliber	
Color Brown/White	Serial No.	Value \$1,050.00	Qty 8.000	Unit GM	Jurisdiction Locality		
Status Seized	Date 11/16/2015	NIC #	State #	Local #	OAN		
Name (Last, First, Middle) Green, Gerald Cornell			DOB 09/28/1964	Age 51	Race B	Sex M	

Notes

BEST AVAILABLE COPY

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON
STATE VS

GERALD CORNELL GREEN

AKA: Gerald Green

Race: Black/African American

Sex: M

Address:

City, State, Zip: Ocean Creek, SC 29445-7194

DL#

SID#

(b)(7)(E)

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

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

TO: Transferred to the State of South Carolina

in violation of § 44-52-20(c)(1)(a) of the S.C. Code of Laws, bearing CDR Code # 2361

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ § 17-25-45(CSC witness 1st or Lawd Act)

The charge is:

☒ As indicated,☐ Lesser Included Offense,☐ Defendant Waives Prosecution to Grand Jury

(def't's choice)

☐ Aggravated Sentence,☐ Recommendation by the State

(b)(6);(b)(7)(C)

Defendant

Attorney for Defendant

68212
SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center for a determinate term of 24 days/monthly years or ☐ under the Youthful Offender Act not to exceed 12 years and/or to pay a fine of \$ 12; provided that upon the service of 12 days/monthly years and or payment of \$ 12; plus costs and assessments as applicable; the balance is suspended with probation for 12 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. 247 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

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

PTUF

Total: \$ 12 plus 20% fee: \$ 12 days/hours Public Service Employment

Payment Terms:

Obtain GED ☐☐ Set by SCOTPS

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

payments of \$ Beginning\$ Paid to Public Defender Fund

Other:

Recipient

*Fees:

§14-1-206 (Assessments 107.5%)

\$

§14-1-211 (A)(1)(Conv. Surcharge)

\$100

\$ 100.00

§14-1-211 (A)(2)(DUI Surcharge)

\$100

\$

§56-5-2993 (DUI Assessment)

\$12

\$

§56-1-286 (DUI Breath Test)

\$25

\$

Proviso 61.6 (Public Def/Prob)

\$300

\$

§14-1-212 (Law Enforce. Pending)

\$25

\$ 25.00

§14-1-213 (Drug Court Surcharge)

\$150

\$ 150.00

§50-21-114 (BLU Breath Test Fee)

\$50

\$

§56-5-2942(f) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

\$ 1.25

TOTAL

\$ 283.25☐ Appointed PD or appointed other counsel,

§47.12 requires \$300 be paid to Clerk

during probation

Clerk of Court/Deputy Clerk:

Court Reporter:

Presiding Judge:

Judge Code:

Sentence Date:

SCCA/217 (7/2016)

U.S. Department of Justice
Drug Enforcement Administration

REPORT OF INVESTIGATION

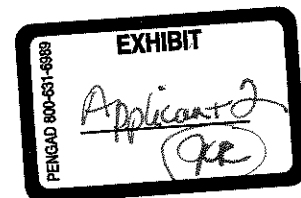
(Continuation)

4. Page 4 of 4	1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
5. Program Code	3. File Title [REDACTED]	
	6. Date Prepared 11-19-2015	

INDEXING

1. [REDACTED]

2. [REDACTED]



DEA Form - 6a
(Jul. 1995)

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RULE 5

028

U.S. Department of Justice
Drug Enforcement Administration

REPORT OF INVESTIGATION

Page 1 of 4

1. Program Code	2. Cross File ☐ ☐ ☐ ☐ ☐	Related Files	3. File No. [REDACTED]	4. G-DEP Identifier [REDACTED]
5. By: Jonathan D Hoff, TFO At Charleston RO			6. File Title [REDACTED]	
7. ☐ Closed ☐ Requested Action Completed ☐ Action Requested By:			8. Date Prepared 11-19-2015	
9. Other Officers: TFO C. Laird, S/A Douglas Treasurer, S/A Gary Lawrence, and S/A Brendan McSheehy				
10. Report Re: Arrest of Gerald GREEN on November 16, 2015				

SYNOPSIS

This DEA investigative report is in regards to the arrest of Gerald Cornell GREEN [hereafter referred to as G. GREEN] on November 16, 2015. Surveillance of G. GREEN was conducted as a result of the interception of a series of calls indicating G. GREEN would be meeting with an unknown source of supply.

DETAILS

1. Reference all other previous reports of investigation related to this case file and CPD case #15-19745.
2. On November 16, 2015, while monitoring TT26, agents intercepted a series of telephone calls with UM2589. During the interception period of TT26, agents determined UM2589 was a source of supply of heroin for G. GREEN.
3. At approximately 10:20 AM, agents intercepted an incoming call (Session 3435) to TT26 from UM2589, which UM2589 indicated that he had replenished his supply of heroin with a better quality heroin. During the call G. GREEN complained about a poor quality heroin he previously obtained from UM2589. The call concluded with G. GREEN telling UM2589 he would return a call once he showered. Agents responded to the area of G. GREEN's residence in Charleston, SC to conduct surveillance of G. GREEN and UM2589 in anticipation of a follow-up conversation.

11. Distribution: Division	12. Signature (Agent) Jonathan D Hoff, TFO	13. Date 12-01-2015
District	14. Approved (Name and Title) /s/ Christopher L Oksala, GS	15. Date 12-07-2015
Other SARI		

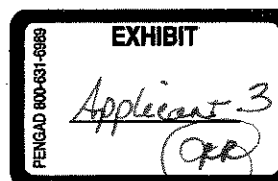
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(Jul. 1996)

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RULE 5



025

CC
AG
AT
BS
SOL

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

Gerald Cornell Green, #187172,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2017-CP-10-2804

ORDER OF DISMISSAL

FILED
CLERK OF COURT
JULY 10 PM 4:19
2019

This matter is before the Court by way of an application for post-conviction relief ("PCR") filed on June 1, 2017 by Gerald Cornell Green ("Applicant"). An evidentiary hearing was convened on July 24, 2019 in Charleston County at the Charleston County Courthouse. Applicant was present and represented by James Falk, Esquire. Benjamin Limbaugh, Esquire of the South Carolina Attorney General's Office, represented the State.

Before the Court were the records of the Charleston County Clerk of court regarding the subject conviction, applicant's records from the South Carolina Department of Corrections, and the application.

I. PROCEDURAL HISTORY

Gerald Cornell Green (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. During its July 2015 term, the Charleston County Grand Jury indicted Applicant for possession of crack cocaine, third offense, (2015-GS-10-3239). During its August 2015 term, the Charleston County Grand Jury indicted Applicant for two counts of possession of heroin, third offense (2015-GS-10-3903, -3937), possession of crack cocaine, third offense (2015-GS-10-3902), and possession of cocaine, third offense (2015-GS-10-3901). During its October 2015 term, the Charleston County

Grand Jury indicted Applicant for possession of heroin, third offense (2015-GS-10-5545). The Charleston County Grand Jury subsequently indicted Applicant for trafficking in heroin (more than 4 grams but less than 14 grams) (2016-GS-3947). Martha K. Runey, Esquire, represented Applicant on all charges. Assistant Solicitor Truc Thi Thanh Tran, Esquire, prosecuted the case.

On July 20, 2016, Applicant appeared in the Charleston County Court of General Sessions before the Honorable R. Markley Dennis, Jr., circuit court judge, and pled guilty as indicted. Judge Dennis sentenced Applicant to twenty-five years imprisonment suspended upon the service of twelve years imprisonment for trafficking in heroin (more than 4 grams but less than 14 grams) and to concurrent terms of five years each for all remaining charges with credit for time served. Applicant did not appeal his pleas or sentences.

II. RELEVANT FACTS

On October 6, 2014, officers executed a lawful traffic stop on Applicant at the intersection of Mount Pleasant Street and Rutledge Avenue in Charleston. *Plea Tr.* 8:7-15. Officers found in plain view a plastic bag containing .58 grams of heroin. *Id.*, 8:17-19. On February 10, 2015, officers conducted a lawful traffic stop on Applicant at Cannon Street and Rutledge Avenue and saw in plain view a clear plastic tube that was burnt on both ends. *Id.*, 8:22-9:3. Applicant admitted the tube was his and he used it to smoke crack cocaine, and officers found on Applicant a bag containing heroin. *Id.*, 9:5-10.

On February 27, 2015, officers observed Applicant sitting in his car behind a Best Western Hotel on Savannah Highway, and obtained consent to search his vehicle. *Id.*, 9:11-16. Officers found two off-white rock-like substances that tested positive for crack cocaine and a razor blade with white powdery residue. *Id.*, 9:16-19.

On March 28, 2015, officers responded to a concerned citizen call regarding a driver passed out in his car at the Kangaroo gas station on Folly Road. Id., 9:20-10-1. Officers arrived and found Applicant passed out in the driver's seat and observed in plain view a bag containing a white powdery substance. Id., 10:2-7. The powder tested positive for .95 grams of cocaine, and officers found within the bag a smaller bag containing .69 grams of crack cocaine and another bag containing .97 grams of heroin. Id., 10:8-14.

On November 16, 2015, agents with the City of Charleston drug enforcement task force received a tip that Applicant would be conducting a drug transaction in the area of Bogart and Norman Streets. Id. 10:15-23. Officers observed Applicant conducting a hand-to-hand transaction with an unknown subject, then walk away while putting something in his pocket. Id., 10-11. Officer conducted a pat down of Applicant and recovered 6.93 grams of heroin, Applicant admitting to making the purchase. Id., 10-11.

Upon hearing the above facts read to the Court at his plea hearing on July 20, 2016, Applicant admitted them as true. Id., 12:3-6.

III. ALLEGATIONS

In his initial application for post-conviction relief, Applicant alleged ineffective assistance of counsel. Specifically, Applicant alleged his "sentencing sheets stated he was pleading guilty without negotiation or recommendation, but the solicitor made a recommendation during the sentencing phase of his plea hearing. His counsel did not object to the recommendation and Applicant alleges counsel was ineffective for failing to object." At the evidentiary hearing, Applicant amended to include an allegation that counsel was ineffective for failing to investigate a potential warrantless wiretap on his cellphone.

IV. APPLICABLE LAW

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 v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, the applicant must prove that counsel’s performance was deficient. *Id.*; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 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.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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.

Strickland does not guarantee perfect representation, only a “ ‘reasonably competent attorney.’ ” 466 U. S. at 687 (quoting McMann v. Richardson, 397 U. S. 759, 770 (1970)); Representation is constitutionally ineffective only if it “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair trial. Strickland, 466 U.S. at 686. Just as there is no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities. See generally Id.

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.

Although courts may not indulge "post hoc rationalization" for counsel's decision making that contradicts the available evidence of counsel's actions, Wiggins, 539 U. S., at 526-527, neither may they insist counsel confirm every aspect of the strategic basis for his or her actions. There is a "strong presumption" that counsel's attention to certain issues to the exclusion of others reflects trial tactics rather than "sheer neglect." Yarborough v. Gentry, 540 U. S. 1, 8 (2003) (per curiam). After an adverse verdict at trial even the most experienced counsel may find it difficult to resist asking whether a different strategy might have been better, and, in the course of that reflection, to magnify their own responsibility for an unfavorable outcome. Strickland, however, calls for an inquiry into the objective reasonableness of counsel's performance, not counsel's subjective state of mind. Id. at 688; Harrington v. Richter, 562 U.S. 86 (2011)

With respect to prejudice, an applicant must demonstrate “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.” Id. at 694. It is not enough “to show that the errors had some conceivable effect on the outcome of the proceeding.” Id. at 693. Counsel’s errors must be “so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.” Id. at 687; Harrington, 562 U.S. 86.

“Surmounting Strickland’s high bar is never an easy task.” Padilla v. Kentucky, 559 U.S. 356, 371 (2010). An ineffective assistance of counsel claim can function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial, and so the Strickland standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. Strickland, 466 U.S. at 689–690. Even under de novo review, the standard for judging counsel’s representation is a most deferential one. Unlike a later reviewing court, the attorney observed the relevant proceedings knew of materials outside the record and interacted with the client, with opposing counsel, and with the judge. It is “all too tempting” to “second-guess counsel’s assistance after conviction or adverse sentence.” Id. at 689; see also Bell v. Cone, 535 U. S. 685, 702 (2002); Lockhart v. Fretwell, 506 U. S. 364, 372 (1993). The question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” not whether it deviated from best practices or most common custom. Strickland, 466 U.S. at 690.

In assessing prejudice under Strickland, the question is not whether a court can be certain counsel’s performance had no effect on the outcome or whether it is possible a reasonable doubt might have been established if counsel acted differently. Wong v. Belmontes, 558 U. S. 15 (2009); Strickland, 466 U.S. at 693. Instead, Strickland asks whether it is “reasonably likely” the result

would have been different. Id. at 696. This does not require a showing that counsel's actions "more likely than not altered the outcome," but the difference between Strickland's prejudice standard and a more-probable-than-not standard is slight and matters "only in the rarest case." Id. at 693, 697. The likelihood of a different result must be substantial, not just conceivable. Id. at 693; Harrington, 562 U.S. 86.

Based on this standard set forth above, this Court finds Applicant has failed to meet his requisite burden of establishing any constitutional ineffectiveness of counsel as to any of his various allegations. Each allegation is addressed fully below:

Ineffective Assistance of Counsel

Applicant alleges that counsel was ineffective for failing to challenge a warrant for a wiretap he believes was placed on his phone.

Applicant testified at the evidentiary hearing that his plea was involuntarily given because there was a possible wire-tap on his phone and he did not know that at the time of the plea. Applicant testified that he received his discovery, but that there were only four pages. Applicant testified that police stopped him on the street because he matched the description of someone who just robbed someone of their gold chain. Applicant testified that he was searched and detained temporarily, there were no drugs in his pocket. Applicant testified that he read in his discovery that his phone was being tapped. Applicant testified that he did not know if a warrant was obtained to tap his phone, but he was aware of the potential issue before taking his plea. Applicant testified that documents received from the DEA were highly redacted, but there was no information about a warrant for his phone to be tapped. Applicant further testified that if there was a warrant he should have had it and him not having it means he believes they did not. Counsel testified that she was not provided with a warrant for the wire taps. Counsel testified

that she reviewed the discovery with Applicant and informed him that they could move to suppress the phone calls if they proceeded to trial. Counsel testified that it was Applicant's decision to plead guilty and that he did not wish to proceed with trial.

This Court finds that counsel advised him of his right to trial and that he waived that right by deciding to take a guilty plea. The plea court specifically reviewed all of the indictments with Applicant, asked if he wished to plead guilty, and he did in fact plead guilty. Applicant has the burden to show that there was a warrantless arrest and has failed to do so in this case. Applicant has presented nothing of evidentiary value in support of his allegation. This Court finds that counsel properly advised Applicant that he could pursue suppression of the evidence if he went to trial, but Applicant decided to pursue the plea. Therefore, this Court finds that Applicant has failed to show counsel was ineffective or how he was prejudiced by any alleged deficiency. This allegation is therefore dismissed with prejudice.

CONCLUSION

Based on all the forgoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient, nor was Applicant prejudiced by Counsel's representation. Therefore, this PCR application must be denied and dismissed with prejudice.

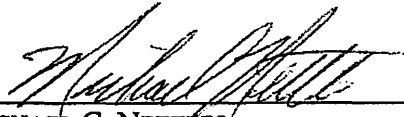
The Court notes Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right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

PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 27 day of Sept, 2019.



MICHAEL G. NETTLES
Presiding Judge
Ninth Judicial Circuit

TTT/0244427/20150201030
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

1502273

ARREST WARRANT NUMBER

2015A1010200720

DATE OF ARREST

02/10/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: OCT 19, 2015

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015-GS-10-05545

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

VS.

GERALD CORNELL GREEN
B/M DOB [REDACTED]

Indictment for

POSSESSION OF HEROIN

SC Code: § 44-53-0370(c)

CDR Code: 0176

FILED

10/28/2015 9:17:49 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

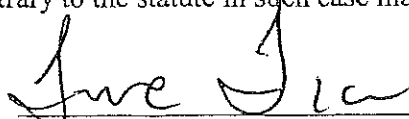
19 MS

At a Court of General Sessions, convened on October 8, 2015, the Grand Jurors of Charleston County present upon their oath:

Possession of Heroin

The defendant, Gerald Cornell Green, did on or about February 10, 2015, in Charleston County, South Carolina, knowingly or intentionally possess Heroin, a schedule I controlled substance narcotic. All in violation of 44-53-0370(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.



TRUC T TRAN
ASSISTANT SOLICITOR

LMB/0244765/20150201445
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER
1503219

ARREST WARRANT NUMBER
2015A1010200982

DATE OF ARREST

02/28/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: JUL 07 2015

VERDICT

DOCKET NO. 2015-GS-10-03239

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JULY TERM 2015

THE STATE

VS.

GERALD CORNELL GREEN
B/M DOB [REDACTED]

Indictment for

POSSESSION OF CRACK COCAINE

SC Code: § 44-53-0375(A)
CDR Code: 3009

FILED

7/17/2015 11:53:30 AM
JULIE J. ARMSTRONG
CLERK OF COURT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

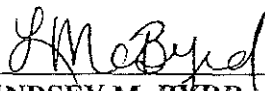
INDICTMENT

At a Court of General Sessions, convened on July 6, 2015, the Grand Jurors of Charleston County present upon their oath:

Possession Of Crack Cocaine

The defendant, Gerald Cornell Green, did on or about February 27, 2015, in Charleston County, South Carolina, knowingly or intentionally possess Crack Cocaine, a cocaine base, as defined in Section 44-53-110. All in violation of 44-53-0375(A) of the South Carolina Code of Laws (1976) as amended.

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


LINDSEY M. BYRD
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

GERALD CORNELL GREENAKA: Gerald GreenRace: Black/African AmericanSex MDOB: [REDACTED] SS# [REDACTED]Address: Jamesford StreetCity, State, Zip: Goose Creek, SC 29445-7194DL# [REDACTED] SID# SC00345386*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADSTQ: Poss Meth/Crack 3rdIn violation of § 44-53-0375(A) of the S.C. Code of Laws, bearing CDR Code # 3016☒ 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

Truc T. Tran

101406

Truc T. Tran, Assistant Solicitor

SC Bar #

[Signature]

Defendant

[Signature]

Attorney for Defendant

69319

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. 247 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 (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 61 6 (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,

3% to County (if paid in installments)

\$

\$ 8.25

§47.12 requires \$500 be paid to Clerk

TOTAL

\$ 283.25

during probation.

Clerk of Court/Deputy Clerk: [Signature]Court Reporter: A. HoffPresiding Judge: [Signature]Judge Code: 2060Sentence Date: 7-20-16

LMB/0304239
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2014-16999

ARREST WARRANT NUMBER

2015A1011300051

DATE OF ARREST

04/28/2015

ACTION OF GRAND JURY

TRUE BILL

ll. J. J.
Foreperson of Grand Jury

Date:

VERDICT

DOCKET NO. 2015-GS-10-03937

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

AUGUST TERM 2015

THE STATE

VS.

GERALD CORNELL GREEN
B/M DOB [REDACTED]

AUG 03 2015

Indictment for

POSSESSION OF HEROIN

SC Code: § 44-53-0370(c)
CDR Code: 0178

FILED

8/17/2015 10:31:00 AM
JULIE J. ARMSTRONG
CLERK OF COURT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA

INDICTMENT

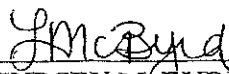
COUNTY OF CHARLESTON

At a Court of General Sessions, convened on August 3, 2015, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF HEROIN

The defendant, Gerald Cornell Green, did on or about October 6, 2014, in Charleston County, South Carolina, knowingly or intentionally possess Heroin, a schedule I controlled substance narcotic. All in violation of 44-53-0370(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.



LINDSEY M. BYRD
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON
STATE VSGERALD CORNELL GREENAKA: Gerald GreenRace: Black/African AmericanSex MDOB: [REDACTED] SS# [REDACTED]Address: [REDACTED] Jamesford StreetCity, State, Zip: Goose Creek, SC 29445-7194DL# [REDACTED] SID# SC00345386*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 I-II Narc/Heroin 3rdIn violation of § 44-53-0370(c) of the S.C. Code of Laws, bearing CDR Code # 0178☒ 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

Truc T. Tran
Truc T. Tran, Assistant Solicitor101406
SC Bar #[Signature]
DefendantMcRumey 49319
Attorney for Defendant 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. 247 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 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (GCCJA Surcharge) \$5 \$ _____

3% to County (if paid in installments) \$ 8.25TOTAL \$ 283.25Clerk of Court/Deputy Clerk: [Signature]Court Reporter: [Signature]Presiding Judge: [Signature]Judge Code: 2060Sentence Date: 7-20-16

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS

GERALD CORNELL GREENAKA: Gerald GreenRace: Black/African AmericanSex: MDOB: [REDACTED] SS#: [REDACTED]Address: Jamesford StreetCity, State, Zip Goose Creek, SC 29445-7194DL# [REDACTED] SID# SC00345386*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 Meth/Crack 3rdIn violation of § 44-53-0375(A) of the S.C. Code of Laws, bearing CDR Code # 3016☒ 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

Truc T Tran, Assistant Solicitor101406
SC Bar #[Signature]
Defendant[Signature]
Attorney for Defendant69319
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. 247 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 (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) \$ \$ 8.25TOTAL \$ 283.25

Clerk of Court/Deputy Clerk

Court Reporter: [Signature]Presiding Judge: [Signature]Judge Code: 2060Sentence Date: 7-20-16

LMB/0303604
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER
2015-004848

ARREST WARRANT NUMBER
2015A1010201565

DATE OF ARREST

03/28/2015

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date:

VERDICT

[Signature]
Foreperson of Petit Jury
Date:

DOCKET NO. 2015-GS-10-03902

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
AUGUST TERM 2015

THE STATE

VS.

GERALD CORNELL GREEN
B/M DOB [REDACTED]

AUG 04 2015

Indictment for

POSSESSION OF CRACK COCAINE

SC Code: § 44-53-0375(A)
CDR Code: 3016

FILED

8/17/2015 10:31:00 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA

INDICTMENT

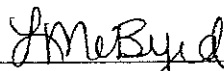
COUNTY OF CHARLESTON

At a Court of General Sessions, convened on August 3, 2015, the Grand Jurors of Charleston County present upon their oath:

Possession of Crack Cocaine

The defendant, Gerald Cornell Green, did on or about March 28, 2015, in Charleston County, South Carolina, knowingly or intentionally possess Crack Cocaine, a cocaine base, as defined in Section 44-53-110. All in violation of 44-53-0375(A) of the South Carolina Code of Laws (1976) as amended.

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


LINDSEY M. BYRD
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

GERALD CORNELL GREENAKA. Gerald GreenRace: Black/African AmericanSex MDOB [REDACTED]SS# [REDACTED]Address Jamesford StreetCity, State, Zip Goose Creek, SC 29445-7194DL# [REDACTED] SID# SC00345386*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 F-I Narc/Heroin 3rdIn violation of § 44-53-0370(c) of the S C Code of Laws, bearing CDR Code # 0178☒ 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

Truc T Tran, Assistant Solicitor101406
SC Bar #Gerald Green
DefendantMcKinney, 69319
Attorney for Defendant 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. 247 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 (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 61 6 (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,3% to County (if paid in installments) \$ \$ 8.25

§47 12 requires \$500 be paid to Clerk

TOTAL \$ 283.25

during probation.

Clerk of Court/Deputy Clerk.

Court Reporter A. HoffPresiding Judge: R. MullinsJudge Code: 2060Sentence Date: 7-20-16

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON
STATE VSGERALD CORNELL GREENAKA: Gerald GreenRace: Black/African AmericanSex: MDOB: [REDACTED]SS#: [REDACTED]Address: Jamesford StreetCity, State, Zip: Goose Creek, SC 29445-7194DL# [REDACTED]SID# SC00345386*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 Possession of Cocaine 3rdIn violation of § 44-53-0370(d)(3) of the S.C. Code of Laws, bearing CDR Code # 3013☒ 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

Truc T. Tran, Assistant Solicitor101406
SC Bar #[Signature]
DefendantMcKuney 69319
Attorney for Defendant 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. 247 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 (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

Clerk of Court/Deputy Clerk

Court Reporter: CallenPresiding Judge: [Signature]Judge Code 20760Sentence Date: 7/28/16

LMB/0303604
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER
2015-004848

ARREST WARRANT NUMBER
2015A1010201564

DATE OF ARREST

03/28/2015

ACTION OF GRAND JURY

TRUE BILL

ll deere
Foreperson of Grand Jury
Date:

VERDICT

DOCKET NO. 2015-GS-10-03901

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
AUGUST TERM 2015

THE STATE

VS.

GERALD CORNELL GREEN
B/M DOB [REDACTED]

AUG 04 2015

Indictment for

POSSESSION OF COCAINE

SC Code: § 44-53-0370(d)(3)
CDR Code: 3013

FILED

8/17/2015 10:31:00 AM
JULIE J. ARMSTRONG
CLERK OF COURT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA

INDICTMENT

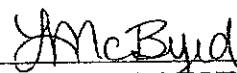
COUNTY OF CHARLESTON

At a Court of General Sessions, convened on August 3, 2015, the Grand Jurors of Charleston County present upon their oath:

Possession of Cocaine

The defendant, Gerald Cornell Green, did on or about March 28, 2015, in Charleston County, South Carolina, knowingly or intentionally possess Cocaine, a schedule II controlled substance narcotic. All in violation of 44-53-0370(d)(3) 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.


LINDSEY M. BYRD
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON
STATE VS.GERALD CORNELL GREENAKA: Gerald GreenRace Black/African AmericanSex MDOB: [REDACTED]SS#: [REDACTED]Address: Jamesford StreetCity, State, Zip: Goose Creek, SC 29445-7194DL# [REDACTED]SID# SC00345386*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 I-II Narc/Heroin 3rdIn violation of § 44-53-0370(c) of the S.C. Code of Laws, bearing CDR Code # 0178☒ 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

Truc T. Tran
Truc T. Tran, Assistant Solicitor

101406

SC Bar #

Defendant

Attorney for Defendant

69319

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. 247 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 (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) \$ \$ 8.25TOTAL \$ 283.25Clerk of Court/Deputy Clerk. CalishCourt Reporter A. HofflanderPresiding Judge: [Signature]Judge Code. 2060Sentence Date: 7-20-16

LMB/0303604
WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER
2015-004848

ARREST WARRANT NUMBER
2015A1010201566

DATE OF ARREST

03/28/2015

ACTION OF GRAND JURY,

TRUE BILL

ll Seel

Foreperson of Grand Jury
Date:

VERDICT

DOCKET NO. 2015-GS-10-03903

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
AUGUST TERM 2015

THE STATE

VS.

GERALD CORNELL GREEN
B/M DOB [REDACTED]

AUG 04 2015

Indictment for

POSSESSION OF HEROIN

SC Code: § 44-53-0370(c)
CDR Code: 0178

FILED

8/17/2015 10:31:00 AM
JULIE J. ARMSTRONG
CLERK OF COURT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA

INDICTMENT

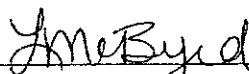
COUNTY OF CHARLESTON

At a Court of General Sessions, convened on August 3, 2015, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF HEROIN

The defendant, Gerald Cornell Green, did on or about March 28, 2015, in Charleston County, South Carolina, knowingly or intentionally possess Heroin, a schedule I controlled substance narcotic. All in violation of 44-53-0370(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.


LINDSEY M. BYRD
ASSISTANT SOLICITOR

COUNTY OF CHARLESTON

STATE VS

GERALD CORNELL GREEN

AKA: Gerald Green

Race: Black/African American

Sex: M

DOB: [REDACTED] SS# [REDACTED]

Address: [REDACTED] Jamesford Street

City, State, Zip: Goose Creek, SC 29445-7194

DL# [REDACTED] SID# SC00345386

*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 Opium/Heroin 4g but <14g 1st**

In violation of § 44-53-0370(e)(3)(a)1 of the S.C. Code of Laws, bearing CDR Code # 2361

☐ 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

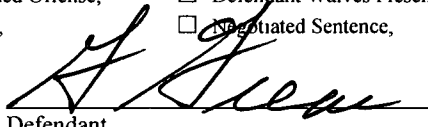
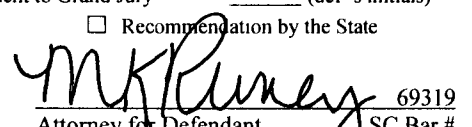
☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State

ATTEST


Truc T. Tran, Assistant Solicitor

101406

SC Bar #


Defendant
Attorney for Defendant 69319
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 _____ yearsand/or to pay a fine of \$ _____; provided that upon the service of 12 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. 247 day☐ 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 (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 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

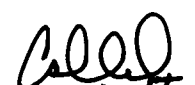
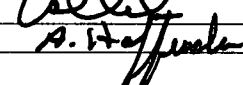
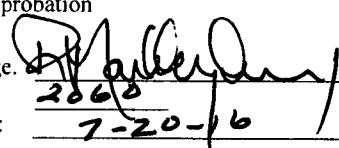
§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

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. Court Reporter. Presiding Judge. Judge Code: 2060Sentence Date: 7-20-16

DOCKET NO. 2016-GS-10-03947

The State of South Carolina
County of Charleston

FILED

8/4/2016 8:57:51 AM
JULIE J. ARMSTRONG
CLERK OF COURT

COURT OF GENERAL SESSIONS
JULY TERM 2016

THE STATE

VS.

GERALD CORNELL GREEN
B/M DOB [REDACTED]

Indictment for
TRAFFICKING IN HEROIN

SC Code: § 44-53-0370(e)(3)(a)2
CDR Code: 0156

TTT/0311055
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-19745

ARREST WARRANT NUMBER

2015A1010205063

DATE OF ARREST

11/16/2015

ACTION OF GRAND JURY

TRUE BILL

JUL 12 2016

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened July 2016, the Grand Jurors of Charleston County present upon their oath:

Trafficking in Heroin

The defendant, Gerald Cornell Green, did on or about November 16, 2015, in Charleston County, South Carolina, knowingly 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 was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of four (4) grams or more of any morphine, opium, salt, isomer, or salt of an isomer thereof, namely Heroin, as described in Section 44-53-190 or 44-53-210, or four (4) grams or more of any mixture containing any of these. All in violation of 44-53-0370(e)(3)(a)2 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.



TRUC T. TRAN
ASSISTANT SOLICITOR