

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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May 19 2020

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Robert Hood., Circuit Court Judge

Appellate Case No. 2020-000188

ANTHONY A. JONES, II.....Petitioner,

v.

STATE OF SOUTH CAROLINA.....Respondent.

APPENDIX

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INDEX

Transcript of Guilty plea, December 12, 2016	2
Application for Post-Conviction Relief.....	31
Return to Application and Motion for Merger	36
Order of Merger	43
Transcript of PCR Hearing, November 18, 2019	46
Order of Dismissal	84
Sentencing Sheets and Indictments	94

1 (The following proceedings were held
2 December 12, 2016, Charleston County, South
3 Carolina, @ 2:04 p.m.)

4 THE COURT: We need to deal with Mr.
5 Jones. State ready to proceed?

6 MR. WARING: Yes, Your Honor.

7 THE COURT: Defense ready to proceed?

8 MR. AYLOR: Your Honor, if we could
9 approach just on one issue, please.

10 THE COURT: Sure.

11 (Off-the-record conference.)

12 THE COURT: Is the State ready to
13 proceed?

14 MR. WARING: Yes, Your Honor.

15 THE COURT: Defense ready to proceed?

16 MR. AYLOR: Yes, Your Honor.

17 THE COURT: Does the Defendant have any
18 record?

19 MR. WARING: No General Sessions
20 record, Your Honor.

21 THE COURT: Victims notified?

22 MR. WARING: Yes, Your Honor.

23 THE COURT: Is there any restitution?

24 MR. WARING: No, Your Honor.

25 THE COURT: And the victims are not

1 present, correct?

2 MR. WARING: Correct.

3 THE COURT: Mr. Aylor, you represent
4 the Defendant?

5 MR. AYLOR: I do, Your Honor.

6 THE COURT: And one of these is a
7 Dorchester County indictment?

8 MR. WARING: Yes, ma'am.

9 THE COURT: And they have conceded to
10 allow you to handle it; is that correct?

11 MR. WARING: Yes, Your Honor.

12 THE COURT: This is indictment
13 2015-GS-10-5385 which is armed robbery as indicted
14 and 2015-GS-18-1420 burglary in the first degree as
15 indicted. This is a Dorchester County case. Any
16 recommendations or negotiations?

17 MR. WARING: Your Honor, the
18 recommendation from the Dorchester County
19 Solicitor's Office is the recommended 15. From
20 Charleston County Solicitor's Office there's no
21 recommendation, Your Honor.

22 THE COURT: Is that correct, Mr. Aylor?

23 MR. AYLOR: That is correct, Your
24 Honor.

25 THE COURT: Have you explained to your

1 client the charges contained in the indictment, the
2 possible punishment and any constitutional rights?

3 MR. AYLOR: I have, Your Honor.

4 THE COURT: Do you believe he
5 understands the charges, the punishment and his
6 rights?

7 MR. AYLOR: I do, Your Honor.

8 THE COURT: Does he wish to plead
9 guilty or not guilty?

10 MR. AYLOR: Guilty, Your Honor.

11 THE COURT: Do you agree with that
12 decision?

13 MR. AYLOR: I do, Your Honor.

14 THE COURT: To your knowledge has he
15 ever had to be evaluated to determine his
16 competency?

17 MR. AYLOR: No, Your Honor, not to my
18 knowledge.

19 THE COURT: Sir, raise your right hand
20 to be sworn.

21 ANTHONY JONES

22 having been duly sworn, testifies as follows:

23 THE COURT: You can put your right hand
24 down. Mr. Aylor, have you likewise explained to
25 your client his right to have his Dorchester County

1 charge disposed of in Dorchester County?

2 MR. AYLOR: I have, Your Honor.

3 THE COURT: And he wishes to give that
4 up that right?

5 MR. AYLOR: He does, Your Honor.

6 THE COURT: Sir, tell me your name for
7 the record.

8 THE DEFENDANT: Anthony Alan Jones.

9 THE COURT: Mr. Jones, how old are you?

10 THE DEFENDANT: Eighteen.

11 THE COURT: How far did you go in
12 school?

13 THE DEFENDANT: GED.

14 THE COURT: What did you do for a
15 living before you were incarcerated?

16 THE DEFENDANT: Landscaping.

17 THE COURT: Are you married?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Do you have any children?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Are you suffering from any
22 mental disabilities or are under the influence of
23 any drugs or alcohol?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: Have you had any drugs or

1 alcohol in the last 72 hours?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Are you aware of any
4 physical, emotional or nervous problems that would
5 keep you from understanding where you are right now
6 or what you're doing?

7 THE DEFENDANT: No, ma'am.

8 THE COURT: Are you on probation or
9 parole?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: Have you ever been treated
12 for the abuse of alcohol, drugs or medication?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: What were you treated for
15 and when?

16 THE DEFENDANT: Marijuana use.

17 THE COURT: How long ago was that?

18 THE DEFENDANT: Two years ago.

19 THE COURT: Did you finish the program
20 you were in?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: I would assume you were a
23 minor when that happened. Where were you getting
24 treatment? Do you remember? Was it Charleston
25 Center, was it Dorchester County Substance Abuse?

1 THE DEFENDANT: Department of Juvenile
2 Justice.

3 THE COURT: Okay. When you got out did
4 you get any aftercare, like did you go to AA or NA;
5 did you seek any kind of counseling?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: On the charge -- and has
8 your lawyer explained to you your right to have
9 your Dorchester County charge disposed of in
10 Dorchester County?

11 THE DEFENDANT: Meaning it can be --

12 THE COURT: Do you want to go to
13 Dorchester and dispose of this burglary in the
14 first degree or do you want to deal with it here
15 today?

16 THE DEFENDANT: We can deal with it
17 here today.

18 THE COURT: On the charge of burglary
19 in the first degree how do you plead?

20 THE DEFENDANT: Guilty.

21 THE COURT: Do you understand that
22 carries a minimum of 15 years and a maximum of
23 life?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And on the charge of armed

1 robbery how do you plead?

2 THE DEFENDANT: Guilty.

3 THE COURT: Do you understand that
4 carries a minimum of ten years and a maximum of
5 30 years?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Do you understand that both
8 are classified as violent? That they are both
9 classified as violent and most serious?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Do you understand that
12 under South Carolina law that subjects you to
13 enhanced penalties?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Do you understand that if
16 you receive an additional most serious offense you
17 can face life without the possibility of parole?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: You also understand that
20 the violent classification affects how you will
21 serve any time you are sentenced to?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Sir, you may have discussed
24 parole or parole eligibility with your lawyer or
25 with others, but until you are sentenced no one can

1 tell you when, if ever, you will be eligible for
2 parole or under what conditions. You should assume
3 that you will serve the entire time in jail that
4 you are sentenced to day for day. Do you
5 understand that?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: I want you to listen
8 carefully to the facts. Mr. Waring.

9 MR. WARING: Thank you, Your Honor.
10 May it please the Court, on June 7th, 2015, at [REDACTED]
11 [REDACTED], this is in Dorchester County, the
12 victim of that residence had left around 12:30 in
13 the afternoon. She had returned around seven p.m.
14 that same day. When she came home she reported
15 that her gun was missing from her nightstand and
16 that the patio door had been unlocked for the
17 neighbors to return furniture previously. Her cat
18 had been left inside. When she came home it was
19 outside. Police also found fingerprints which
20 matched the Defendant. The gun stolen from the
21 victim's house was the same gun that would later be
22 used in a subsequent armed robbery. The Defendant
23 was also denied permission to enter house.

24 With regard to armed robbery, this
25 incident occurred June 28th, 2015. The Defendant

1 contacted the victim regarding a Craigslist ad for
2 a laptop. The Defendant and co-defendant who has
3 already pled guilty drove in a gold colored Ford
4 truck to the Speedway gas station at 8976
5 University Boulevard to meet with the victim. The
6 Defendants parked behind some trees and dumpsters
7 and approached the victim one at a time. This
8 Defendant approached the victim first. The
9 Defendant said he needed more money and walked off.

10 At that point the other Defendant
11 approached the victim and went through a similar
12 routine. He said he needed more money, walked away
13 for a minute. Co-defendant then approached one
14 final time. He opened up the victim's car door,
15 grabbed the laptop, pulled out a black revolver,
16 pointed it at the victim's face. The co-defendant
17 then fled, got back in the truck with this
18 Defendant and fled the scene.

19 THE COURT: Who had the gun? I'm not
20 clear.

21 MR. WARING: The co-defendant had the
22 gun, Your Honor. They then fled the scene. North
23 Charleston officers arrived shortly thereafter.

24 THE COURT: So what did they take from
25 the victim?

1 MR. WARING: The laptop, Your Honor.

2 THE COURT: Sorry. You may continue.

3 MR. WARING: North Charleston officers
4 arrived. Shortly thereafter they saw the vehicle
5 matching the description put out by the victim,
6 high speed chase ensued. And these Defendants
7 ended up crashing into a tree before they had fled.
8 They were able to apprehend the Defendants. Inside
9 the truck was the victim's laptop and the truck
10 turned out to be this Defendant's father truck. A
11 few days later the gun was found in a nearby yard.
12 The co-defendant gave a statement implicating this
13 Defendant as the one who planned the robbery and
14 claimed that this Defendant had actually given him
15 the gun to perform the armed robbery.

16 This Defendant also gave a statement,
17 admitted to setting up the purchase with the victim
18 for the laptop. The victim also positively
19 identified the Defendant, Your Honor.

20 THE COURT: What is the disposition of
21 the co-defendant?

22 MR. WARING: He pled guilty, Your
23 Honor.

24 THE COURT: What happened to him?

25 MR. WARING: He got ten years.

1 THE COURT: So he was able to plead
2 down to something else?

3 MR. WARING: No, Your Honor. There was
4 no offer on that case. He got ten years.

5 THE COURT: On the armed robbery, I got
6 you. Sir, do you agree or disagree with the facts?

7 THE DEFENDANT: I agree.

8 THE COURT: Feel anything needs to be
9 changed or added to the facts?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: Are you pleading guilty,
12 sir, because you are guilty?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: I want you to listen
15 carefully. When you plead guilty you give up your
16 constitutional rights. Those include your rights
17 to a jury trial. At a jury trial you are entitled
18 to the presumption that you are innocent. The
19 State has the burden of proving your guilt beyond a
20 reasonable doubt. You have the right to confront,
21 cross-examine the State's witnesses, call your own
22 witnesses, present any defense that you may have
23 challenging any statements you may have made as
24 well as remain silent and your silence cannot be
25 used against you. Do you understand your rights?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Do you understand that you
3 are giving up each and every one of those rights?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Other than what has been
6 stated for the record have there been any other
7 plea negotiations made on your behalf?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Have you been satisfied
10 with your lawyer's services?

11 THE DEFENDANT: Somewhat.

12 THE COURT: Well, you need to explain
13 that to me, what that means.

14 THE DEFENDANT: Well, me personally I
15 just felt that I was told a very short amount of
16 time to today that if I don't take this plea I will
17 be going to trial and I never got to prepare a
18 defense if that were the case.

19 THE COURT: What do you mean? Mr.
20 Aylor, were you ready for trial?

21 MR. AYLOR: Yes. And the issues that
22 were stated and some other issues that Mr. Waring
23 didn't bring up in regards to those cases were also
24 present in regards to the case specifically as to
25 the evidence. He was aware of that and there was

1 confusion that he had I believe with whether or not
2 we could split the charges, meaning handle the
3 Charleston County today and then handle the
4 Dorchester charge at a later time.

5 THE COURT: Does he understand that his
6 sentence can be treated like a strike?

7 MR. AYLOR: Exactly.

8 THE COURT: And face an LWOP?

9 MR. AYLOR: And beyond that and of
10 course LWOP and then of course the consecutive time
11 and the amount of time combined calculated.

12 THE COURT: It is going to end up being
13 a life sentence potentially worst case scenario.
14 So I guess my question for you, sir, is do you want
15 a trial? Because we have a jury ready and I can
16 pick a jury for you in the morning.

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Are you certain of that?

19 THE DEFENDANT: Positive.

20 THE COURT: Because I'm a believer in
21 the trial system. I don't want you to have any
22 second thoughts about it. Because once you do this
23 today, while we ask if you want to appeal a guilty
24 plea, there really is no remedy from a guilty plea
25 because you have waived all your rights. So once

1 you do this today it is done. There's no going
2 back from it. You can file -- I can't say a PRC
3 would not be granted or effective, but probably one
4 in some infinitesimal number of PRC's are granted
5 because they would have to show that you did this
6 involuntarily and against your will. They would
7 also have to show that if you had gone to trial
8 that it's some likelihood of success. So I need
9 you to be certain in your own mind. The only
10 person that can make that decision is you because
11 you are the only one that has to live with these
12 consequences.

13 So I need to make sure that you are
14 settled in your mind, this is in your best
15 interest. I need for you to be settled in your
16 mind that this is a course of action you want to
17 take. I have known Mr. Aylor since he was at the
18 state house. So I have no doubt that if there's a
19 defense to be propounded on your behalf that he has
20 prepared it and that he is ready to go forward with
21 the trial.

22 And the other thing about lawyers is we
23 don't like to lose. It just isn't personal, kind
24 of OCD that way. So he is going to do everything
25 he can to get you acquitted within his power.

1 So I need to make sure that you think
2 and that you reflect and that you are certain that
3 want to waive your right to a trial because I have
4 a panel here. They are ready to go forward. You
5 are on a trial docket and we can pick a jury in the
6 morning if that's what you want to do.

7 I have been doing this over 20 years.
8 I don't ever try to -- even when I practiced law I
9 never tried to figure out what a jury was going to
10 do because you just never know what 12 folks are
11 going to do.

12 So I don't have a clue. Now, there are
13 some things you got against you. You got a
14 co-defendant who implicated you. And you got a
15 confession and I don't know whether there's a valid
16 challenge to that confession. I have no idea. I
17 haven't heard it and haven't seen it.

18 So those are things you would have to
19 discuss with Mr. Aylor. The other thing that you
20 may well -- again, I have to look at things worse
21 case scenario, is you can go forward on this charge
22 in Charleston and if convicted it's a strike, it's
23 a most serious strike. And then if you go to
24 Dorchester and are tried they can serve you with
25 life without parole notice because a conviction on

1 that would subject you to life without parole and
2 that would be another strike.

3 So I need you to -- as they say, eyes
4 wide open -- understand worse case scenario, best
5 case scenario, and then I need you to make an
6 informed decision. And unfortunately in life
7 there's just a point where the rubber meets the
8 road and you got to make a choice and it isn't
9 always within the time frame that we wish to make
10 that choice.

11 So I just need to know whether you want
12 a trial or whether you really wholeheartedly want
13 to plead guilty today.

14 THE DEFENDANT: Your Honor, I would
15 like to plead guilty.

16 THE COURT: You are certain of that?

17 THE DEFENDANT: I am positive.

18 THE COURT: So I am going to ask again
19 and I want you to give me an honest answer. Have
20 you been satisfied with Mr. Aylor's services?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: You are certain of that?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Has he answered all of your
25 questions?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Done everything you have
3 asked or expected?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Have you understood your
6 conversations with him?

7 THE DEFENDANT: Yes.

8 THE COURT: Is there anything you feel
9 that you would have him do today that he has not
10 already done on your behalf?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Do you have any complaints
13 about his services?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: Has anyone promised you
16 anything or held out any hope of a reward to cause
17 you to plead guilty?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Has anyone used threats,
20 coercion, force or pressure to cause you to plead
21 guilty?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Are you pleading guilty
24 freely and voluntarily and of your own will?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Do you believe you have had
2 enough time to make up your mind about pleading
3 guilty?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Have you understood my
6 questions?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Do you need to ask me about
9 anything we have been over?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: Have you been truthful in
12 your answers to the Court?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Do you understand that you
15 have a right to appeal this guilty plea and
16 sentence of the Court, that you must do so in
17 writing within ten days of today?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Do you understand if you
20 could not afford an attorney that one would be
21 appointed to you at no cost?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Now, I ask again and I ask
24 it sincerely and I want you to give me a sincere,
25 truthful answer. Do you want a jury trial?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: Do you want to plead guilty
3 today?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Do you understand that even
6 though the Court has gone through some procedural
7 things with you that I take no position one way or
8 the other whether you have a jury trial or not?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Do you understand that if
11 you desire to have a jury trial that the Court
12 encourages that?

13 THE DEFENDANT: Um-hmm.

14 THE COURT: Do you have any questions
15 for the Court?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: I find there's a
18 substantial factual basis for each guilty plea,
19 that the Defendant has entered the pleas freely,
20 voluntarily, knowingly and intelligently. And he
21 has had the advice and assistance of counsel who he
22 has indicted to the Court he is satisfied. I will
23 accept each plea.

24 Anything further from the State
25 regarding Mr. Jones?

1 MR. WARING: No, Your Honor.

2 THE COURT: Be glad to hear from you,
3 Mr. Aylor, and I have read the package that you
4 provided to the Court and I will make it part of
5 his Charleston County file.

6 MR. AYLOR: Thank you, Your Honor. His
7 family is here on his behalf. I'm not sure if all
8 or any of them would like to speak at this time. I
9 want to give them an opportunity.

10 THE COURT: Certainly. Be glad to hear
11 from any of them who would like to address the
12 Court.

13 MS. JONES: No. Just on the Dorchester
14 County charge is where I think that there was some
15 confusion. On June 7th, 2015, he was 16 years old
16 at the time so we thought it was potential to work
17 with some other alternative for him to get some
18 additional rehabilitation versus having him come
19 back home at 30 years old and that's where we are
20 today. So I think that's where there was some
21 confusion on how this was going to go. So we
22 understand. Thank you for your time.

23 THE COURT: Ma'am, if you can tell us
24 your name?

25 MS. JONES: His mother, Felicia Jones.

1 THE COURT: You're his mother. Ma'am,
2 I assume Mr. Aylor has explained to you that South
3 Carolina law has changed substantially in the last
4 five to ten years and that certain offenses just
5 automatically a juvenile is now charged as an
6 adult. It's no longer within the purview of the
7 juvenile court system.

8 MS. JONES: Not from him directly, but
9 I had received some counseling that confirmed what
10 you are saying.

11 THE COURT: And unfortunately in South
12 Carolina you can be charged as an adult as young as
13 13 depending on the offense. So it is not an
14 automatic any more under a certain age to be
15 charged as a juvenile.

16 I certainly understand your concern as
17 a parent. Is there anyone else that wishes to
18 address the Court?

19 MR. JONES: Anthony Jones, his father.
20 Just like to thank you for considering this plea.

21 THE COURT: Thank you, sir. I
22 appreciate your candor with the Court. Ma'am,
23 would you like to speak on his behalf? Are you a
24 family friend?

25 MS. JONES: Yes, I'm his grandmother.

1 THE COURT: Oh, you look so young.

2 MS. JONES: I am here to show my
3 support.

4 THE COURT: Ma'am, tell us your name.

5 MS. JONES: My name is Louise Jones.

6 THE COURT: Very nice, thank you,
7 ma'am. Mr. Aylor, is there anything else you would
8 like to share with the Court?

9 MR. AYLOR: Your Honor, I know Mr.
10 Jones will speak as well. This is obviously a
11 tragic situation for him and his family. He is
12 here today at 18 years old, very young age as
13 pointed out, with no adult criminal record, to
14 plead and take responsibilities for his actions and
15 a couple of bad decisions, very bad decisions have
16 put him in a very difficult place. He's done quite
17 a number of months already in jail which I know
18 Your Honor will give credit for when he goes in the
19 Department of Corrections.

20 We do ask that he receive if at all
21 possible the minimum sentence which is the
22 recommendation by Dorchester County Solicitor of
23 the 15 years. We feel like that would be a
24 substantial amount of time. This isn't a scenario
25 I don't believe where Mr. Jones was caught up so

1 much in drugs or alcohol or any other substances.
2 He was just caught up with the wrong people. And
3 we see where one of those people is now and sounds
4 like he is going to be right there with him and he
5 comes from as you have witnessed yourself an
6 excellent family. He was raised right and
7 unfortunately just made some very, very serious
8 youthful indiscretions which has brought him here
9 and we will please ask for the Court's mercy. I
10 know Mr. Jones would like to speak.

11 THE COURT: Sir, be glad hear from you.

12 THE DEFENDANT: I am just ready to put
13 this behind me and accept responsibility for my
14 actions. I have nothing else.

15 THE COURT: Well, I will say this and I
16 usually don't talk during guilty pleas because I
17 generally live by the adage better my silence be
18 misinterpreted than misquoted. But you're young.
19 The law says you are a man. You are really a child
20 and you said something very impressive to me which
21 gives me some hope that you're about to make a turn
22 for the better, that you just want to get this
23 behind you and face your consequences.

24 I can tell from listening to your
25 grandmother, your mother and your dad that you have

1 a substantial support system, you have a loving
2 family who I have no doubt will stand by you. This
3 is a bitter pill to swallow. When I first saw this
4 and I saw your age my first question was why there
5 wasn't a recommendation of something else that
6 would have allowed you the benefit of a YOA
7 sentence. I am certain there must be some history
8 in there that I am not aware of that made that an
9 unlikely situation which I don't necessarily think
10 we need to delve into.

11 But as a young man it is a bitter pill
12 to swallow and I can't say that I understand
13 because I have never had to walk in your shoes, but
14 I can imagine that this is a very scary experience.
15 People act tough, but sometimes life just deals you
16 a hard blow and I can imagine it's a hard blow for
17 you and it's a hard one to swallow.

18 But I will say this: The funny thing
19 about life is it always gives you a second chance.
20 You can always reinvent yourself and become
21 something different. You have great family. I
22 know that they have raised you right so I would
23 strongly suggest that you cling to your family, you
24 cling to their love and support. That is what's
25 going to sustain you. I believe you can come out

1 better with more life experience then you went in
2 with, okay? Anything further from the State?

3 MR. WARING: No, Your Honor.

4 THE COURT: Anything further from the
5 defense?

6 MR. AYLOR: Nothing.

7 THE COURT: Based on what has been
8 presented to the Court on the Dorchester County
9 charge the Court has no problem following the
10 recommendation of 15 years which is the minimum
11 mandatory sentence. As regard to the armed robbery
12 in Charleston, I am sentencing him to ten years in
13 the state Department of Corrections. These
14 sentences will be concurrent with one another. He
15 will get credit for any time that he has served to
16 be calculated and applied by the Department of
17 Corrections.

18 Young man, do you need any drug
19 treatment services while you are there? Because I
20 can order that. And they will put you in a
21 different unit after you go to R&E so you can get
22 some treatment while you are there.

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: So I'm going to order the
25 ATU if it is available. I wish you Godspeed.

(These proceedings were concluded at
2:22 p.m., December 12, 2016, Charleston County,
South Carolina.)

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CERTIFICATE OF REPORTER

1
2
3 I, Ruth C. Weese, Registered Diplomate
4 Reporter for the State of South Carolina at Large,
5 do hereby certify that the foregoing transcript is
6 a true, accurate, and complete record.

7 I further certify that I am neither related
8 to nor counsel for any party to the cause pending
9 or interested in the events thereof.

10 Witness my hand, I have hereunto affixed my
11 official seal this 5th day of May, 2017 at
12 Charleston, Charleston County, South Carolina.

13
14 *Ruth C. Weese*

15 _____
16 Ruth C. Weese
17 Registered Diplomate
18 Reporter
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STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

IN THE COURT OF COMMON PLEAS

Anthony Allan Jones, II (370783)

Plaintiff(s)

2017 APR 14

PM 4:49

CIVIL ACTION COVERSHEET

2017-CP-18-657

vs.

CERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

State of South Carolina

Defendant(s)

Submitted By: Elizabeth Franklin-Best
Address: Blume Franklin-Best & Young
900 Elmwood Ave., Suite 200
Columbia, SC 29201

SC Bar #: 72555
Telephone #: 803-765-1044
Fax #: 803-765-1143
Other:
E-mail: betsy@blumelaw.com

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

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

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

CERTIFIED COPY
4/14/2017

Ceryl Graham
Clerk of Court
Dorchester County

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), General (130), Breach of Contract (140), Fraud/Bad Faith (150), Failure to Deliver/Warranty (160), Employment Discrim (170), Employment (180), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20-NI-, Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Assault/Battery (370), Slander/Libel (380), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Sexual Predator (510), Permanent Restraining Order (680), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Pre-Suit Discovery (670)

Submitting Party Signature:

BAF-Best

Date:

4/12/17

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

4/14/2017

Cheryl Graham

Clerk of Court
Dorchester County

IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA)
County of Charleston)
County of Dorchester)
Anthony Allan Jones, II (370783))
v.)
State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

2017-CP-18- 657

[This application conforms to the requirements of South Carolina Rules of Criminal Procedure, Form 5]

1. Anthony Alan Jones is currently incarcerated at Kirkland Correctional Institute.
2. He was convicted in the Charleston County Court of General Sessions, in Charleston County, South Carolina. He was also convicted of a Dorchester County charge. He entered pleas to both charges in Charleston County.
3. Name(s) of co-defendant(s) (if any): N/A
4. He pleaded guilty to indictment 2015A1010202785 for Armed Robbery. He pleaded guilty to indictment 2015A1820500477 for Burglary, 1st Degree (Dorchester County charge).
5. Applicant pleaded guilty on December 12, 2016 and was sentenced to 10 years. Applicant pleaded guilty on December 12, 2016 and was sentenced to 15 years (the sentences were ordered to be run concurrently).
6. Applicant was found guilty after a plea of guilty.
7. Applicant did not appeal from the judgment of conviction or the imposition of sentence.
8. N/A.
9. Applicant did not appeal his conviction because he entered a facially valid plea.
10. Applicant alleges the following grounds as the bases upon which he is being held unlawfully:
 - a) Ineffective assistance of plea counsel;

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CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

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CERTIFIED COBIA

- b) The automatic waiver provision of S.C. Code Ann. §63-19-20 is unconstitutional.
 - c) Applicant's sentence violates his right to be free from cruel and unusual punishment.
11. Facts in Support of the grounds set out in (10).
- a) Investigation is on-going, but it appears plea counsel did not undertake any investigation into the circumstances of Applicant's youth to mitigate Applicant's sentence, nor did he engage in any other meaningful plea negotiations on Applicant's behalf in violation of his right to the effective assistance of counsel. *Lafler v. Cooper*, 132 S.Ct. 1376 (2012), *Missouri v. Frye*, 132 S. Ct. 1399 (2012), *Strickland v. Washington*, 46 U.S. 668 (1984).
 - b, c) Applicant was automatically treated as an adult pursuant to S.C. Code Ann. §63-19-20 which provides, in pertinent part: "Child' or 'juvenile' does not mean a person 16 years of age or older who is charged with a Class A, B, C, or D felony ... or a felony which provides for a maximum term of imprisonment of 15 years or more." Applicant was 16 years old at the time of his crime. This statutory provision is unconstitutional because it does not allow discretion in the sentencing options for a defendant who was a juvenile at the time of the crime in violation of Applicant's right to due process. *See Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v. Alabama*, 132 S. Ct. 2455 (2012); *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014). Applicant's sentence is also cruel and unusual in violation of the Federal Constitution, Amendment 8. Applicant's sentence violates the South Carolina Constitution, Article I, §§3, 15.
12. Prior to this application, petition has not any other petition challenging his convictions.
13. N/A.
14. No ground set forth above has been previously presented to this or any other Court, State or Federal, in any petition, motion or application.
15. N/A.
16. N/A.
17. Petitioner was represented by an attorney for his guilty plea.

- 18. Petitioner was represented by David Aylor, 24 Broad Street, Charleston South Carolina 29401.
- 19. Applicant is requesting the court vacate his plea.
- 20. Applicant is not now under sentence from any other court that he has not challenged.

STATE OF SOUTH CAROLINA)
)
 County of Charleston) **VERIFICATION**

2017 APR 14 PM 4:49
 CHERYL GRAHAM
 CLERK OF COURT
 DORCHESTER COUNTY

I, Anthony Jones, 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.

RAF-Beit on Behalf of Anthony Jones

SWORN to and subscribed before me this 12th day of April, 2017.

Jill B. Abernethy
 Notary Public

My Commission Expires: 3-29-26

CERTIFIED COPY
4/14/2017
Cheryl Graham
 Clerk of Court
 Dorchester County

CERTIFIED COPY

Dorchester County
Clerk of Court

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
)
ANTHONY ALLAN JONES, II,)
S.C.D.C. No. 370783)
Applicant,)
)
v.)
)
STATE OF SOUTH CAROLINA,)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2017-CP-10-1880

RETURN AND MOTION FOR MERGER

In response to the post-conviction relief application filed April 14, 2017¹, Respondent would show this Court:

I.

Anthony Allan Jones, II (“Applicant”) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court and Dorchester County Clerk of Court. During its October 2015 term, the Charleston County Grand Jury indicted Applicant for armed robbery. (2015-GS-10-5385). During its October 2015 term of court, the Dorchester County Grand Jury also indicted Applicant for first-degree burglary (2015-GS-18-1420). David Aylor, Esquire, represented Applicant on both charges.

On December 12, 2016, Applicant appeared in the Charleston County Court of General Sessions before the Honorable Deadra Jefferson, circuit court judge, and pled guilty as indicted to both offenses.² At this hearing, Applicant, who has his GED and was eighteen years old at the time of the plea, indicated he wanted to plead guilty to both offenses, was indeed guilty of both offenses, was satisfied with Mr. Aylor’s representation of him, understood the mandatory

¹ Applicant simultaneously filed an application for post-conviction relief in Dorchester County that is identical to this application. (2017-CP-18-0657). As discussed below, Respondent moves to merge these two applications into one single action for post-conviction relief.

² Applicant waived venue to plead to both charges in Charleston County. (Tr. 4-5, 7).

minimum and maximum sentences he could receive for each offense, had not been threatened or promised anything to induce his plea, and waived all of his constitutional rights to plead guilty. (Tr. 4-20). Pursuant to negotiations with the First Circuit Solicitor's office, Judge Jefferson sentenced Applicant to fifteen years' imprisonment for first-degree burglary. Judge Jefferson sentenced Applicant to ten year's imprisonment of armed robbery. Judge Jefferson ordered both of these mandatory minimum sentences to be served concurrently. Applicant did not pursue any of his appellate rights following his guilty plea.

II.

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

1. Ineffective assistance of plea counsel, specifically: "Investigation is on-going, but it appears plea counsel did not undertake any investigation into the circumstances of Applicant's youth to mitigate Applicant's sentence, nor did he engage in any other meaningful plea negotiations on Applicant's behalf in violation of his right to the effective assistance of counsel. Lafler v. Cooper, 132 S.Ct, 1376 (2012), Missouri v. Frye, 132 S. Ct. 1399 (2012), Strickland v. Washington, 46 U.S. 668 (1984)."
2. "The automatic waiver provision of S.C. Code Ann. § 63-19-20 is unconstitutional" and "Applicant's sentence violates his right to be free from cruel and unusual punishment," specifically, Applicant was automatically treated as an adult pursuant to S.C. Code Ann. §63-19-20 which provides, in pertinent part: "'Child' or 'juvenile' does not mean a person 16 years of age or older who is charged with a Class A, B, C, or D felony ... or a felony which provides for a maximum term of imprisonment of 15 years or more." Applicant was 16 years old at the time of his crime. This statutory provision is unconstitutional because it does not allow discretion in the sentencing options for a defendant who was a juvenile at the time of the crime in violation of Applicant's right to due process. See Roper v. Simmons, 543 U.S. 551 (2005); Graham v. Florida, 560 U.S. 48 (2010); Miller v. Alabama, 132 S. Ct. 2455 (2012); Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014). Applicant's sentence is also cruel and unusual in violation of the Federal Constitution, Amendment 8. Applicant's sentence violates the South Carolina Constitution, Article I, §§3, 15."

Attached herewith and incorporated herein are the records of the Charleston and Dorchester County Clerks of Court regarding the subject conviction, the guilty plea transcript,

and Applicant's records from the South Carolina Department of Corrections. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

Respondent interprets Applicant's allegations to be those of ineffective assistance for failure to present mitigation evidence or for failure to challenge the constitutionality of S.C. Code Ann. § 63-19-20. In a post-conviction relief action, the 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, Applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove trial counsel's performance was deficient Id. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, trial counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With

respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. It is clear from the record that Applicant received the mandatory minimum sentences for both offenses. Therefore, his assertions his counsel was ineffective for failing to present mitigation evidence is wholly without merit. Additionally, Respondent submits S.C. Code Ann. § 63-19-20 is constitutional, does not amount to cruel and unusual punishment, and counsel was not ineffective for failing to challenge the statute on such grounds. However, the allegation of ineffective assistance of counsel may raise questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Additionally, Respondent moves to merge this application with the identical application Applicant has filed in Dorchester County challenging these same convictions and sentences (2017-CP-18-0657). Both applications were filed the same day by the same counsel of record, Elizabeth Franklin-Best, Esquire, challenge the same convictions, and make identical allegations. Since an applicant is not generally permitted to have multiple post-conviction relief proceedings in regards to the same convictions (See Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); S.C. Code Ann. § 17-27-90), Respondent hereby moves to have the two proceedings merged, with the Dorchester application (2017-CP-18-0657) being merged into this application (2017-CP-10-1880). Respondent has conferred with counsel for Applicant, who indicated she does not object to this motion.

V.

Additionally, Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this post-conviction relief application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. All claims should be made well in advance of the evidentiary hearing. Because Applicant is represented by an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. 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), SCRPC.

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

VI.

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

VII.

WHEREFORE, having made its Return, Respondent requests Applicant's Dorchester County application (2017-CP-18-0657) be merged into this application and an evidentiary hearing be convened on this application.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: Megan Harrigan Jameson
ATTORNEYS FOR RESPONDENT

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

June 19, 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
ANTHONY ALLAN JONES, II,)
S.C.D.C. No. 370783,)
)
Applicant,)
)
vs)
)
STATE OF SOUTH CAROLINA,)
)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS

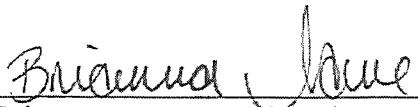
2017-CP-10-1880

AFFIDAVIT OF SERVICE BY MAIL

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

Elizabeth Franklin-Best, Esquire
900 Elmwood Ave., Suite 200
Columbia SC 29201

DATED this 19th day of June, 2017.



Brianna Arnone, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA)
 COUNTIES OF CHARLESTON)
 AND DORCHESTER)
)
 ANTHONY ALLAN JONES, II,)
 S.C.D.C. No. 370783)
 Applicant,)
)
 v.)
)
 STATE OF SOUTH CAROLINA,)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS

Case No. 2017-CP-10-1880 & 2017-CP-18-0657

ORDER OF MERGER

David A. Aylor
 CLERK OF COURT
 2017 JUL 21 AM 10:51
 CERTIFIED COPY

This matter comes before this Court by way of two applications for post-conviction relief filed April 12, 2017 (2017-CP-10-1880 and 2017-CP-18-0657). Respondent made its return and motion to merge these two applications on June 19, 2017.

PROCEDURAL HISTORY

Anthony Allan Jones, II (“Applicant”) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court and Dorchester County Clerk of Court. During its October 2015 term, the Charleston County Grand Jury indicted Applicant for armed robbery. (20145-GS-10-5385). During its October 2015 term of court, the Dorchester County Grand Jury also indicted Applicant for first-degree burglary (2015-GS-18-1420). David Aylor, Esquire, represented Applicant on both charges.

On December 12, 2016, Applicant appeared in the Charleston County Court of General Sessions before the Honorable Deadra Jefferson, circuit court judge, and pled guilty as indicted to both offenses.¹ At this hearing, Applicant, who has his GED and was eighteen years old at the time of the plea, indicated he wanted to plead guilty to both offenses, was indeed guilty of both

¹ Applicant waived venue to plead to both charges in Charleston County. (Tr. 4-5, 7).

offenses, was satisfied with Mr. Aylor's representation of him, understood the mandatory minimum and maximum sentences he could receive for each offense, had not been threatened or promised anything to induce his plea, and waived all of his constitutional rights to plead guilty. (Tr. 4-20). Pursuant to negotiations with the First Circuit Solicitor's office, Judge Jefferson sentenced Applicant to fifteen years' imprisonment for first-degree burglary. Judge Jefferson sentenced Applicant to ten year's imprisonment of armed robbery. Judge Jefferson ordered both of these mandatory minimum sentences to be served concurrently. Applicant did not pursue any of his appellate rights following his guilty plea.

CURRENT APPLICATIONS

In his two identical applications for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following allegations:

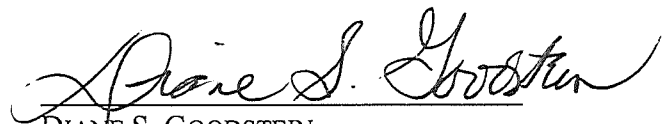
1. Ineffective assistance of plea counsel, specifically: "Investigation is on-going, but it appears plea counsel did not undertake any investigation into the circumstances of Applicant's youth to mitigate Applicant's sentence, nor did he engage in any other meaningful plea negotiations on Applicant's behalf in violation of his right to the effective assistance of counsel. Lafler v. Cooper, 132 S.Ct, 1376 (2012), Missouri v. Frye, 132 S. Ct. 1399 (2012), Strickland v. Washington, 46 U.S. 668 (1984)."
2. "The automatic waiver provision of S.C. Code Ann. § 63-19-20 is unconstitutional" and "Applicant's sentence violates his right to be free from cruel and unusual punishment," specifically, Applicant was automatically treated as an adult pursuant to S.C. Code Ann. §63-19-20 which provides, in pertinent part: "'Child' or 'juvenile' does not mean a person 16 years of age or older who is charged with a Class A, B, C, or D felony ... or a felony which provides for a maximum term of imprisonment of 15 years or more." Applicant was 16 years old at the time of his crime. This statutory provision is unconstitutional because it does not allow discretion in the sentencing options for a defendant who was a juvenile at the time of the crime in violation of Applicant's right to due process. See Roper v. Simmons, 543 U.S. 551 (2005); Graham v. Florida, 560 U.S. 48 (2010); Miller v. Alabama, 132 S. Ct. 2455 (2012); Aiken v. Byars, 410 S.C. 534, 765 S.E.2d 572 (2014). Applicant's sentence is also cruel and unusual in violation of the Federal Constitution, Amendment 8. Applicant's sentence violates the South Carolina Constitution, Article I, §§3, 15."

Both applications were filed the same day by the same counsel of record, Elizabeth Franklin-Best, Esquire, challenge the same convictions, and make identical allegations. In its return, Respondent moved to have the two proceedings merged, with the Dorchester application (2017-CP-18-0657) being merged into this application (2017-CP-10-1880). Respondent indicated it had conferred with counsel for Applicant, who stated she did not object to this motion.

Since an applicant is not generally permitted to have multiple post-conviction relief proceedings in regards to the **same convictions** (See Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); S.C. Code Ann. § 17-27-90), this Court finds the two proceedings should be merged, with the Dorchester application (2017-CP-18-0657) being merged into this application (2017-CP-10-1880). This Court therefore dismisses the Dorchester County application (2017-CP-18-0657) and merges the two cases, with docket number 2017-CP-10-1880 being the surviving case.

IT IS THEREFORE ORDERED that the Dorchester County Clerk of Court dismiss the application for docket number (2017-CP-18-0657) and merge the two cases, with docket number 2017-CP-10-1880 being the surviving case.

AND IT IS SO ORDERED this 22 day of June, 2017.


DIANE S. GOODSTEIN
Chief Administrative Judge
First Judicial Circuit


Dorchester, South Carolina

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STATE OF SOUTH CAROLINA)	
)	Court of Common Pleas
COUNTY OF CHARLESTON)	Case No. 2017-CP-10-01880
_____)	
ANTHONY ALLAN JONES, JR,)	
)	
Plaintiff,)	
)	
VS.)	Transcript of Record
)	
THE STATE OF SOUTH CAROLINA,)	
)	
Defendant.)	DATE: November 18, 2019
_____)	

B E F O R E:

THE HONORABLE ROBERT E. HOOD

A P P E A R A N C E:

ELIZABETH ANNE FRANKLIN-BEST
Attorney for the Petitioner

BENJAMIN HUNTER LIMBAUGH
Attorney for the Respondent

Original transcript ordered by:
Elizabeth Anne Franklin-Best

Stenographically recorded and transcribed by:

Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter
Certified Shorthand Reporter

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INDEX

EXAMINATION

Witness Name	Page
ANTHONY ALLAN JONES, JR	
DIRECT BY MS. FRANKLIN-BEST.....	9
DAVID AYLOR	
DIRECT BY MS. FRANKLIN-BEST.....	15
CROSS BY MR. LIMBAUGH.....	25
RE-DIRECT BY MS. FRANKLIN-BEST.....	30

EXHIBITS

Exhibit	Description	Identification	Evidence
Exh. 1	Applicant's Music therapy certificate		14
Exh. 2	Applicant's 12-week course for behavior modification		14
Exh. 3	Applicant's completion of violence prevention certificate		14

1 THE COURT: This is Mr. Jones?

2 MR. LIMBAUGH: That's correct, Your Honor.

3 THE COURT: And Ms. Best is here?

4 Good morning.

5 MS. FRANKLIN-BEST: Good morning.

6 THE COURT: Are you Anthony A. Jones?

7 MR. JONES: Yes.

8 THE COURT: They took you to the wrong place, Bud.
9 I'm sorry about that. They were supposed to bring you
10 straight here and not to the Charleston County Detention
11 Center. So I apologize for your visit at the Charleston
12 County Detention Center. But we got you over here now.

13 Okay. Did you have a chance to talk with Ms. Best
14 once you got here?

15 MR. JONES: Yes, sir.

16 THE COURT: Okay. And do you need any more time to
17 talk to him?

18 MS. FRANKLIN-BEST: I do not, Your Honor.

19 THE COURT: Let's go ahead and start.

20 MS. FRANKLIN-BEST: May it please the Court.

21 MR. LIMBAUGH: This is Anthony Jones, Case No.
22 2017-CP-10-1880. Mr. Jones is presently confined to the
23 South Carolina Department of Corrections pursuant to orders
24 of commitment of the Charleston County Clerk of Court and
25 Dorchester County Clerk of Court.

1 During his October 2015 term, the Charleston County
2 Grand Jury indicted applicant for armed robbery. During it's
3 October 2015 term, the Dorchester County Grand Jury also
4 indicted applicant for first-degree burglary. Mr. David
5 Aylor represented applicant on both charge.

6 On December 12th --

7 THE COURT: Did you say Dorchester?

8 MR. LIMBAUGH: That's correct.

9 THE COURT: We have a Charleston and Dorchester
10 charge originally?

11 MR. LIMBAUGH: Yes, Your Honor.

12 THE COURT: Just wanted to make sure I heard you
13 correctly. Go ahead.

14 MR. LIMBAUGH: December 12th, 2016, applicant
15 appeared in the Charleston County Court of General Sessions
16 before the Honorable Deadra Jefferson, circuit judge, and
17 pled guilty as indicted to both offenses. Applicant waived
18 his Dorchester charge into Charleston County to plead guilty,
19 Your Honor.

20 At his hearing, applicant, who has a GED, was 18
21 years old at the time, indicated he wanted to plead guilty to
22 both offenses and was guilty of both offenses, and was
23 satisfied with Mr. Aylor's representation.

24 Pursuant to the negotiations with the First Circuit
25 Solicitor's Office, Judge Jefferson sentenced applicant to 15

1 years imprisonment for first-degree burglary.

2 Judge Jefferson sentenced applicant to 10 years
3 imprisonment for the armed robbery. Judge Jefferson ordered
4 both of these mandatory minimum sentences to be served
5 concurrently. Applicant did not pursue any of his appellate
6 rights following his guilty plea.

7 Applicant filed this application for post-conviction
8 relief on April 14th, 2017. Applicant simultaneously filed
9 the exact same application in Dorchester County, Your Honor.
10 But we did do a motion to merge those, an order subsequently
11 filed.

12 THE COURT: So we are doing both of them today; is
13 that right?

14 MS. FRANKLIN-BEST: Yes, Your Honor.

15 THE COURT: Great. Is it one number now, or is
16 it --

17 MR. LIMBAUGH: I believe it should all be under the
18 Charleston County number.

19 MS. FRANKLIN-BEST: I think that's right, Your
20 Honor.

21 THE COURT: That's fine. No problem. I just wanted
22 to make sure. Okay.

23 MR. LIMBAUGH: In his original application, his two
24 allegations were ineffective assistance of plea counsel,
25 specifically. Investigation is ongoing, but it appears plea

1 counsel did not undertake any investigation into the
2 circumstances of applicant's youth to mitigate applicant's
3 sentence, nor did he engage in any meaningful plea
4 negotiations on applicant's behalf, in violation to his
5 rights to effective counsel.

6 The second, automatic waiver provision of the South
7 Carolina codes annotated 63-19-20 is unconstitutional. And
8 applicant's sentence violates his right to be free from cruel
9 and unusual punishment. Specifically, applicant was
10 automatically treated as an adult pursuant to SC Code
11 63-19-20, which provides, in pertinent part, "Child" or
12 "juvenile" does not mean a person sixteen years of age or
13 older who is charged with a Class A, B, C, or D felony or a
14 felony which provides for a maximum term of imprisonment of
15 fifteen years or more.

16 Applicant was 16 years old at the time of this
17 crime. Statutory provision is unconstitutional because it
18 does not allow discretion in the sentencing options for the
19 Defendant who was a juvenile at the time of the crime, in
20 violation of applicant's right to due process.

21 Applicant's sentence is also cruel and unusual in
22 violation of the Federal Constitution, Amendment 8.
23 Applicant's sentence violates the South Carolina
24 Constitution, Article 1, Section 315.

25 Applicant is represented here today by Ms. Elizabeth

1 Best. And I will hand it over to her now to clarify any
2 further allegations that she needs to go forward with today,
3 Your Honor.

4 THE COURT: All right.

5 MS. FRANKLIN-BEST: Good afternoon, Your Honor. May
6 it please the Court. I would like just to offer the Court a
7 brief road map of the claims that we are going forward on
8 today.

9 THE COURT: Wonderful.

10 MS. FRANKLIN-BEST: Anthony Jones pleaded guilty, as
11 you heard Mr. Limbaugh say, on December 12th, 2016, to two
12 charges, armed robbery and burglary first. He was a juvenile
13 at the time of these offenses, but was treated as an adult
14 pursuant to South Carolina Code annotated 63-19-20, which
15 holds that a "Child" or "juvenile" does not mean a person
16 sixteen years of age or older who is charged with a Class A,
17 B, C, or D felony as defined in Section 16-1-20 or a felony
18 which provides for a maximum term of imprisonment of fifteen
19 years or more.

20 So he received the sentence of 15 years, which was
21 the minimum that he could receive under this statute.

22 So the issues in this case PCR, Your Honor, first of
23 all, why a juvenile, who has never served a YOA sentence, did
24 not receive one in this case. So he immediately went from a
25 sentence in the Department of Juvenile Justice to a 15-year

1 sentence in an adult prison, sentenced as an adult.

2 But the larger point that I would like to argue,
3 Your Honor, is at the conclusion of his testimony, is that
4 the waiver provisions, 16-19-20, is, in fact,
5 unconstitutional under recent United States and South
6 Carolina Supreme Court case law.

7 There may be some additional facts that my client
8 may wish to bring to the Court's attention at that point, but
9 those are the two main claims we are going forward on, Your
10 Honor.

11 And with that brief road map, we would like to call
12 Mr. Jones to testify.

13 THE COURT: Okay. Come on up, Mr. Jones. You got
14 the paperwork you need with you?

15 MS. FRANKLIN-BEST: I should probably put this on
16 the record, Your Honor. We had a scheduled PCR hearing a
17 number of months ago. At this point, I don't recall exactly
18 when. There were issues of Mr. Jones's competency at that
19 point. We delayed the hearing. He was subsequently found
20 incompetent at that point. But we have had him restored.
21 We've worked with South Carolina Department of Corrections.
22 He's been medicated. And, in my opinion, seems to be
23 perfectly fine. I was speaking with him earlier and seems
24 like he understands everything going on today.

25 THE COURT: Great. Let's swear him in.

1 ANTHONY ALLAN JONES, JR.,

2 having been duly sworn, testifies as follows:

3 THE CLERK: For the record, please state your full
4 name and spell your last name.

5 THE WITNESS: Anthony Allan Jones Jr, J-o-n-e-s.

6 DIRECT EXAMINATION

7 BY MS. FRANKLIN-BEST:

8 Q. Anthony, how old are you today?

9 A. 21 years old.

10 Q. You are 21. And your folks, Anthony, Sr. and Ms.
11 Felicia Jones are here in the courtroom today. Do you see
12 them? Can you say yes or no for the court reporter, please?

13 A. Yes, ma'am.

14 Q. And how old were you when you were charged with
15 these offenses?

16 A. I was 17 when I was arrested. And the first-degree
17 burglary took place shortly before my 17th birthday. So I
18 was 16 at the time of the first-degree burglary.

19 Q. So you were 16. So you were a juvenile at the time
20 these events occurred. Were you 16 at the time of your armed
21 robbery?

22 A. No, ma'am. That was a week after my 17th birthday.

23 Q. So right after that? Okay. And to be clear, you
24 were charged in both Charleston and Dorchester Counties,
25 correct?

1 A. Yes, ma'am.

2 Q. And in Dorchester County, you got the burglary first
3 degree, and the Charleston County, you got the armed robbery;
4 is that correct?

5 A. Yes, ma'am.

6 Q. And so did the solicitor in Dorchester County
7 recommend the term of 15 years?

8 A. I believe so, yes.

9 Q. And is it true that the Charleston solicitor did not
10 make any sentencing recommendation?

11 A. Yes.

12 Q. Can you explain to the Court how Mr. David Aylor
13 came to represent you?

14 A. It was a recommendation from my family that -- well,
15 that he actually take my case.

16 Q. Okay. So your folks kind of reached out to
17 Mr. Aylor? Is that your understanding what happened?

18 A. Yes.

19 Q. Can you describe your relationship you had with
20 Mr. Aylor?

21 A. I saw him -- well, when I first heard from my family
22 that David Aylor would be taking my case, I met with the
23 private investigator from his law firm. And I met with him
24 two or three times. And then I didn't really hear too much
25 more from him until later in 2016. And so it kind of -- I

1 was thinking it would go one way, and he sort of, kind of let
2 me know that he wouldn't really be able to do anything until
3 the motion of discovery or Rule 5 came back. So he couldn't
4 really give me any answers into sentencing early on. So I
5 just waited.

6 Q. But did you meet with him sort of numerous times, or
7 Mr. Aylor and his investigator?

8 A. I met with the investigator one time. And that was
9 about the armed robbery. But I actually got served a warrant
10 while I was already arrested for the first-degree burglary.
11 And I didn't really have a chance to meet with him at the
12 time of the burglary. Well, I got served with the warrant
13 for the burglary. My bad. And I was writing him letters
14 about that. And he let me know around March or April that
15 things would be picking up sooner.

16 Q. Okay. So that the Court was beginning to get
17 interested in to the case and moving it. Did you have an
18 opportunity to review all your discovery with him?

19 A. Not really. We didn't really have a chance to,
20 like, sit down and say, well, we'll try this or do this, or
21 this evidence can be used this way in trial, and stuff like
22 that. But he did let me know there was an implication
23 against me. And he did let me know that the confession I
24 gave was not in my favor.

25 Q. So you did give a confession in this case for both

1 of these charges; is that accurate?

2 A. Yes, ma'am.

3 Q. And what did you discuss in terms of possible
4 sentences that you might receive on December 12th?

5 A. On the date of December 12th, it was a 15-year
6 sentence. One was a negotiated plea for 15 years. And that
7 was with Dorchester County. And then there was an open plea
8 for 10 to 30 years for armed robbery. And that was with
9 Charleston County.

10 Q. Just to discuss a little bit of your background,
11 prior to these charges, you had gotten into a little bit of
12 trouble before. Is that fair to say?

13 A. Yes, ma'am.

14 Q. And at the time of these offenses, were you on
15 juvenile parole?

16 A. Yes, ma'am.

17 Q. And what were you on juvenile parole for?

18 A. Second-degree burglary.

19 Q. Is it second-degree burglary? And were there any
20 other offenses, shoplifting maybe?

21 A. It was probation, but it wasn't a violation. It was
22 never a probation violation. It was just a shoplifting
23 charge I had in juvenile and an illegal carrying of a
24 firearm.

25 Q. So you had burglary second, and then you had a

1 weapons charge and a shoplifting? Is that accurate?

2 A. Yes, ma'am.

3 Q. And so when you pleaded guilty, what sentence did
4 you receive?

5 A. 15 years run concurrent.

6 Q. And were you aware of any plea negotiations that
7 occurred in your case?

8 A. No, ma'am.

9 Q. And in addition to the issue of your sentence, are
10 there any other issues that you wanted to bring to the
11 Court's attention?

12 A. There was recommendations from my counselors at SCDC
13 that I be rehabilitated in ways other than my current prison
14 sentence, because they felt at my age, that I shouldn't
15 necessarily be in an environment with people who may have a
16 life sentence or maybe habitual offenders. And I've been in
17 a couple of classes and stuff. And I've received some
18 certificates for behavior modification, victim impact groups,
19 and violence prevention.

20 Q. Could I see those?

21 MS. FRANKLIN-BEST: If I may approach the witness,
22 Your Honor. If I could make these exhibits for this, these
23 courses that Anthony has taken since he's been incarcerated.

24 THE COURT: Can you show them to Mr. Limbaugh?

25 MR. LIMBAUGH: Without objection.

1 THE COURT: Plaintiff's Exhibit 1, 2 and 3.

2 (Applicant's Exhibit 1, Music therapy certificate,
3 was marked for identification.)

4 (Applicant's Exhibit 2, 12-week course for
5 behavior modification, was marked for identification.)

6 (Applicant's Exhibit 3, Completion of violence
7 prevention program certificate, was marked for
8 identification.)

9 BY MS. FRANKLIN-BEST:

10 Q. What kind of classes have you been taken? Where are
11 you housed right now, which prison?

12 A. Kirkland Correctional.

13 Q. And you are taking these classes at Kirkland?

14 A. Yes, ma'am.

15 Q. And could you just describe to the Court what
16 classes you've been taking?

17 A. This is a music therapy group class. And this is a
18 certificate for my participation. The other two was a
19 completion for a 12-week course for behavior modification.
20 And the final one was another completion of violence
21 prevention. And those are all three.

22 Q. And could you tell us, who again was it who wondered
23 if there might be some other kind of form of punishment for
24 you other than incarceration?

25 A. Dr. Edan. I don't know his first name. He actually

1 is my counselor for two of those certificates from him.

2 MS. FRANKLIN-BEST: No further questions from me,
3 Your Honor.

4 THE COURT: Would you like to ask any questions, Mr.
5 Limbaugh?

6 MR. LIMBAUGH: I have no questions for this
7 witness.

8 THE COURT: Thank you very much. Would you like us
9 to make copies of those forms we have?

10 MR. JONES: Yes, sir.

11 THE COURT: So he can keep those for his records.
12 It would be harder for him to get them back than for us to
13 have a copy.

14 We are going to make you a copy of those. Okay,
15 Mr. Jones?

16 MR. JONES: Thank you.

17 MS. FRANKLIN-BEST: I would like to next call David
18 Aylor to testify.

19 DAVID AYLOR,
20 having been duly sworn, testifies as follows: ak

21 THE CLERK: If you would, please state your full
22 name and spell your last name.

23 THE WITNESS: My name is David, last name Aylor,
24 A-y-l-o-r.

25 DIRECT EXAMINATION

1 BY MS. FRANKLIN-BEST:

2 Q. Can you please, for the record, tell us how you came
3 to represent Mr. Jones.

4 A. Yes. Bear with me. I tried to put together a
5 little bit of a timeline. It's been several years. You
6 could imagine it's somewhat hard. But the way that I have it
7 by date is, I originally represented him on a burglary
8 second-degree, which he was charged with back on July 8th,
9 2014. That was a case that was here in Charleston County.
10 And it was a burg' second, nonviolent.

11 He was already on probation through juvenile
12 detention with two charges, which was -- that I did not
13 represent him on, that he had been convicted of previously --
14 which was unlawful carrying of a pistol and shoplifting. And
15 then we went forward with that case. And he pled out, as he
16 stated, earlier that year, I believe in late July or sometime
17 around there, 2014.

18 And then -- and I was hired originally by his
19 father. I met both of his parents and was in contact with
20 them a lot. Unfortunately, things tended to go on a downward
21 spiral. He got arrested again. Next one was for armed
22 robbery, possession of a weapon during a violent crime. That
23 was in Charleston, I believe. Yes, Charleston, or Charleston
24 County. And that was June 28th, 2015. So, more or less,
25 close to a year after I had originally been retained for his

1 first charge, his father came back and met with me.

2 That was my main outside point of contact for any
3 time that he was in jail and incarcerated as far as the
4 family or friends was concerned, is speaking with his father.

5 He then, as he stated, got served while in jail in
6 Charleston. He was also arrested -- I'm sorry. I want to go
7 back to the burg' for a second. He was -- there was a
8 probation violation along with that because he was on
9 probation. And we handled that as well at that point back in
10 July of 2014. And I can repeat anything, if I need to.

11 So as he stated earlier in his testimony, he was
12 then provided a warrant for burglary first degree in
13 Dorchester County while he was in custody in Charleston
14 County. And this was from an alleged incident date of June
15 7th, 2015.

16 So then, ultimately, at the point before this plea
17 came about, both of them -- he was still on probation for the
18 burglary second charge that I had originally represented him
19 on. The probation from the unlawful carrying and the
20 shoplifting that was prior to my representation, was over,
21 essentially, when they ended it when he pled. So then they
22 were going to -- to my knowledge -- or I don't recall that
23 they ever did violate him again since he was going forward
24 with these more serious charges, that being the burg' first,
25 or the solicitor, I should say, burg' first. And that was

1 handled by Glenn Justice, who was formerly with Dorchester
2 County Solicitor's Office. I believe he's in private
3 practice now.

4 And for his Charleston charges, first time was with
5 Spiro when he was a juvenile. And then when the more
6 serious, of course, armed robbery, and possession of weapon
7 during a violent crime, which, as already stated, was in
8 general sessions court with him as an adult, was handled by
9 Richard Waring, who is still currently with the solicitor's
10 office in Charleston.

11 Q. Fair to say you had a couple year history with Mr.
12 Jones and the Jones family from the time that he was a
13 juvenile up until the point that these cases were resolved
14 where he was treated as an adult; is the accurate?

15 A. That's correct.

16 Q. Do you recall any of the plea negotiations in this
17 case?

18 A. Yeah. The main driving force behind it was, because
19 he's a good solicitor, but a fair one, I think, was Richard
20 Waring. He was much more -- how shall I say? -- aggressive
21 with his handling of his Charleston cases, which, again, was
22 the armed robbery and the possession. And I think -- and
23 this is just purely speculation and my own opinion, one,
24 Dorchester and Charleston don't run on the same sort of
25 timeline tracks. Dorchester is a little bit slower. But

1 there was a lot of -- I don't want to say pressure, but
2 concern about the outcome of the case from the victims that
3 were involved. So that is why it sort of moved along, pushed
4 the Charleston case kind of on the forefront, as opposed to
5 the Berkeley -- I'm sorry, the Dorchester.

6 So then I started negotiating. I've done this, I
7 don't know, probably 30 or 40 times, maybe more in my career,
8 where I've had someone charged in two different jurisdictions
9 or two different counties and it not being the same circuit,
10 as opposed to it being Charleston and Berkeley and all within
11 the Ninth. And this situation, as in many times, it was
12 Charleston County with the Ninth Circuit Solicitor's Office.
13 And, obviously, Dorchester County, I can't recall what
14 circuit that one is, Dorchester and Orangeburg. So I was
15 dealing with Glenn and Richard. But, ultimately, I was more
16 concerned as far as the sentencing goes, even though that
17 potentially could be less with ten-year minimum with Richard
18 on armed robbery, that he was going to want higher.

19 Reason for that being, he was familiar with his
20 prior convictions. And maybe -- I'm sure most of the Court
21 knows, it's the law that even if it's a juvenile, they still
22 see those prior incidents, "they" being the solicitor, even
23 though in general sessions cases, can see the convictions.
24 So even though you wouldn't say they are, per se, used
25 against the person, it definitely, in my opinion as a defense

1 counsel, creates a bias of, hey, this person has been getting
2 in trouble and some serious trouble for quite some time and
3 this isn't sort of a first-go-around with bad experience.

4 Q. During the course of your plea negotiations with the
5 State, did you ever sort of discuss with them, hey, look,
6 he's just been in DJJ and how about we try a YOA before we
7 give this kid a sentence as an adult in prison? Do you
8 recall any of that?

9 A. Absolutely. I mean, it still hurts my heart today
10 for him being such a young man where he is now through some
11 of the decisions he's made, and almost just as much as his
12 parents. You know, I'm sure it still hurts today and will
13 for a long time, because he was a boy. But he was making man
14 choices. And we definitely worked very hard, particularly
15 with Richard, to try to see if we could get it under a Y.

16 Because of the fact that -- I think two reasons --
17 or three, really, three reasons they were not at all
18 interested in cutting the client that kind of break, even
19 though he could potentially get it under a certain type of
20 plea agreement if we worked it out, is, one, because they
21 knew what his prior stuff was. Again, even though it was
22 juvenile, they knew what his convictions were; two, because
23 both the cases in both Dorchester and Charleston were
24 serious, serious violent offenses or most serious violent
25 offenses, it wasn't like he's got a marijuana charge in one

1 place and one count it was two. And then, three, as he
2 stated earlier in his own testimony, he gave statements. He
3 confessed to everything.

4 Beyond that, the evidence, one of the instances was
5 a truck involved with a round by him and his co-defendant.
6 The armed robbery, I believe, it was in that truck that they
7 slammed into a tree running from the police. Actually was in
8 the name of his father. Amongst messages related to meeting
9 up, I believe it was one of those Craigslist-type spams, meet
10 the person and stuff. I think it was Craigslist. Like I
11 said, it's four or five years ago. Then the same with, you
12 know, Dorchester, the facts were hard.

13 So the only thing I had going for me, ma'am, really,
14 in regard to doing everything I could from a standpoint of
15 mitigation factors, was his age. Again, like I said, they
16 weren't budging because they knew I could do nothing if we
17 went to trial.

18 Q. So as I understand your testimony, and I think I got
19 this right, from the State's perspective, what they were most
20 concerned about were his prior offenses, the severity of the
21 offenses on this particular case, and then what they thought
22 was sort of like their overwhelming proof of guilt? Is that
23 safe to say were your concerns?

24 A. Correct. Sort of talk about bringing a knife into a
25 gun fight, as far as my position as his applicant, to say my

1 hands was tied would be an understatement.

2 In regards to the discovery, his father had full
3 copies of it, was provided. I kept in touch with them. And
4 we had a very good relationship, almost I would consider a
5 friendship via text message. With most of my clients, you
6 know, at the time, I probably had around 300 or 400 clients,
7 most of them I don't have personal cell phone to talk with,
8 but I did on some occasions. And it being the fact his son
9 was so young, and understanding, so concerned, we kept in
10 touch a lot.

11 As far as the client himself, he was aware of
12 everything. And we answered all of his questions. I got --
13 and I know you are aware, because I showed it to you as well
14 as a representative from the Attorney General's Office, what
15 I do, every time I have a plea, because this is not my first
16 day at school, when it comes to a PCR, is go over all the
17 information provided to the client. And then I have them
18 sign an affidavit that I put together. And I note -- it is
19 notarized prior to the plea. And I did that in this case.

20 And I don't believe Mr. Jones -- I wasn't paying
21 attention somewhat when he testified. I don't think he
22 accused me of him not understanding the case. But just for
23 the record, for Your Honor to hear, we do have that here
24 where it goes over what he was charged with.

25 The only thing I will say in critique in something

1 Mr. Jones said that I believe is incorrect, and I don't think
2 he said this to try to mislead the Court in any way, he
3 probably just doesn't remember, which is understandable, and
4 he's not an attorney, was that he said that the Charleston
5 charges, which, again, was the armed robbery and the
6 possession of a weapon during a violent crime, which Richard
7 Waring was handling, that those charges were open to 10 to
8 30. And that is not accurate. Actually, it was negotiated.

9 So we knew that the minimal on the burglary, as you
10 and I discussed outside of this hearing, was 15. That was
11 going to be the lowest that Judge Jefferson -- even she, that
12 day, because of his age and everything, I think didn't feel
13 that comfortable with the situation. But that 15, we knew
14 whatever came from the Charleston County charges that we were
15 pleading to, also was not going to go above 15. And it was
16 going to run concurrently. So there was not going to be any
17 surprises in the courtroom, for lack of a better term.

18 Your Honor has seen thousands upon thousands of
19 pleas, but this was a completely negotiated plea on all
20 fronts. So, in fact, I don't recall if we approached Judge
21 Jefferson or maybe went in the back. But she already knew
22 what the circumstances were, particularly because it was two
23 counties and the different circuits.

24 She also was in agreement. Sometimes the judge will
25 look at negotiated plea and say, I am not agreeing to that

1 negotiation. She was in agreement with the negotiation. His
2 family, obviously, was aware of it and in agreement. And he
3 obviously was. And I had no choice but to be, considering
4 all the circumstances.

5 Q. It's probably been a long time since you read the
6 plea transcript here, but do you recall Judge Jefferson sort
7 of expressing some concern or that a boy this young was
8 actually getting this kind of a sentence?

9 A. I think everybody in the courtroom was that way.
10 And I know Judge Jefferson well. And I've been in front of
11 her a tremendous amount of times. And she's pretty
12 courageous in saying when she has an opinion about something,
13 regardless if it's something she has the power to change or
14 correct. But, again, this was a boy. But he was, you know,
15 facing adult consequences for those decisions.

16 Q. And the judge did not have the discretion, did she,
17 to go behind the plea agreement?

18 A. If there was some way that could ever happen and
19 change and you could have a hearing or something like that
20 within that change being made through the legislature here in
21 South Carolina, I think that would be excellent and a very
22 admirable system. Unfortunately, no, that doesn't come into
23 play.

24 Q. At this point, that's correct.

25 A. Not yet.

1 MS. FRANKLIN-BEST: And I have no more questions,
2 Your Honor.

3 THE COURT: Thank you. Mr. Limbaugh,
4 cross-examination?

5 CROSS-EXAMINATION

6 BY MR. LIMBAUGH:

7 Q. Let's get into a little bit into what surrounded the
8 YOA and why Mr. Jones didn't get that. Could you just
9 briefly reiterate that for me? I think it was three things
10 you stated why the solicitor was not inclined to work with a
11 YOA sentence.

12 A. Yeah. So, again, just to kind of recap it, there
13 was two cases that I was dealing with, one being Charleston
14 County and one being Dorchester County, both on a very same
15 timeline, reasonably within days of each other or weeks of
16 each other when they occurred. So there wasn't sort of an
17 age issue to one as compared to the other.

18 But between the two cases, most of the negotiations,
19 while they were between all three parties, myself, Glenn
20 Justice for Dorchester County and Richard Waring for
21 Charleston County, Richard Waring was the one that we
22 definitely -- I dealt with the most.

23 And then he, when the pleas were sort of put
24 together, and why they weren't able to do YOA, was based
25 upon, one, the prior record, which at that point in time,

1 his -- I do not believe he had any other arrests or
2 convictions than these. He had unlawful carrying, which I
3 assume was somewhere around 2013 maybe. I started
4 representing him in '14 for -- what did I say? --
5 shoplifting, I think, under 2,000. So that was 2013, I
6 think. I don't know that for a fact, that he was on
7 probation for. And then when I was first hired by his
8 family, that was a burg' second nonviolent, in which he was
9 then convicted as a juvenile in juvenile court.

10 And then when these charges came, he first went in,
11 because like I said, on the armed robbery is when there was a
12 car wreck and they chased him and caught him. So, basically,
13 at that time of arrest, he goes in while on probation,
14 juvenile probation for those charges. And then, as he
15 stated, was served in Charleston County Detention Center with
16 a burg' first warrant for Dorchester, because they had gotten
17 identification and everything signed up, and then the judge
18 then signed the warrant and they served him that one, or
19 signed the affidavit.

20 Finally, it was the seriousness of these offenses,
21 in that, you know, he was looking at the burg' first in one
22 place, armed robbery in another place, had a prior.

23 I don't describe him this way, because I don't think
24 it's so much fair and balanced, but he had a prior "gun
25 charge". It wasn't an unlawful carrying. I don't know what

1 the facts of that were. But when you have any kind of guns
2 in your history and then you have these violent crime
3 charges, all the solicitors that I've ever dealt with usually
4 kind of really reflect back on that.

5 Q. And correct me if I am wrong, but the solicitor is
6 not under any obligation to offer the defendant a plea,
7 period, but certainly not a YOA; is that correct?

8 A. That's correct. YOA is something that we use as a
9 tool all the time to try to negotiate. And it's something
10 that I think both -- all parties involved more often than not
11 find it fair. In this circumstance, no, they don't have to
12 give me a plea at all.

13 As I stated earlier, one of the many tough parts
14 about this was the strength of both the cases. You know, I
15 was not in a position -- I like trying cases. I've tried a
16 whole lot. I don't try cases that I lose, on purpose at
17 least. And these would have definitely been those type of
18 cases, unfortunately, due to all the facts. So I think the
19 strength of knowing what they had and everything else I've
20 mentioned, yeah, we were lucky to get the minimum.

21 Q. And according to the confession of Mr. Jones,
22 correct?

23 A. That's correct.

24 Q. And then going to the age consideration, admittedly,
25 Mr. Jones was rather young during these offenses?

1 A. Yes, he was.

2 Q. And as you stated, as is in the plea transcript,
3 there was consideration for his age, even at the time he took
4 the plea. Do you recall that?

5 A. Yes. I don't recall that, a lot of the specifics as
6 previously mentioned by counsel, because that was four and a
7 half years ago, something like that. But what I do recall is
8 that -- any time you have a young person coming in front of a
9 judge, it's something you pay notice to, particularly when
10 you are talking about a lengthy amount of prison time
11 exposure, and then actually in this circumstance, of course,
12 was negotiated minimum, but the 15-year sentence that was
13 handed down.

14 Q. Okay. Of course, obviously, 15 years is a long
15 time. However, that is the minimum sentence he could have
16 received on those charges; is that correct?

17 A. That's correct. On the burglary charge, 15 is the
18 lowest he can go. And then on the sort of commanding charge
19 of Charleston, being the armed robbery, 10 was the lowest
20 that they could go.

21 Q. Which is what he received in the guilty plea
22 negotiated, correct?

23 A. Yeah. Let me see. I've got -- plea offer is to
24 plead to armed robbery and burg' first. You know, then all
25 the negotiations and everything, it was 15 to life, of

1 course, on the burg' first, and 10 to 30 on the armed
2 robbery.

3 Q. Just to clear up about these other allegations
4 alleging that waiver statute, saying that as long as it was
5 here -- applicant was of age at the time was waived up to be
6 tried as an adult or being -- you know, he pled as an adult
7 under the statute because he was charged with a crime that
8 maximum term of imprisonment is 15 years or more, correct?
9 Is that's your understanding of the statute?

10 A. That is.

11 Q. Okay.

12 A. It's pretty black and white.

13 Q. Right. And these defenses did carry maximum terms
14 of potential imprisonment over 15 years; is that correct?

15 A. That's correct.

16 Q. And are you aware of any cases at the time or since
17 that has found that statute to be unconstitutional?

18 A. Unfortunately, no.

19 Q. Fair enough. And cases such as *Aiken v. Byars* and
20 *Miller v. Alabama* relate to youthful offenders being given
21 mandatory, and in some cases under nonmandatory schemes, life
22 without possibility of parole. Is that your understanding of
23 those cases?

24 A. Somewhat. I can't recall, you know, real specifics.
25 I don't want to go on the record and quote something wrong,

1 but, yeah. I was a C student in law school. I can only go
2 so far with that type of thing.

3 MR. LIMBAUGH: That's all I have.

4 THE COURT: Redirect?

5 MS. FRANKLIN-BEST: Just to clarify one particular
6 point.

7 REDIRECT EXAMINATION

8 BY MS. FRANKLIN-BEST:

9 Q. Anthony had an armed robbery and a burglary first,
10 correct? And the gun charge was actually a prior offense?

11 A. Yes. The gun charge was at that point probably
12 maybe two or three years back.

13 Q. Just want to make sure that the record was clear.

14 A. Yeah. I'm sorry if I did not make that clear. I
15 never represented him in regards to gun charges he was
16 convicted of.

17 MS. FRANKLIN-BEST: Thank you.

18 THE COURT: Thank you.

19 Any other witnesses?

20 MS. FRANKLIN-BEST: No other witnesses, Your Honor.

21 MR. LIMBAUGH: The State rests.

22 THE COURT: Happy to hear from you.

23 MS. FRANKLIN-BEST: If I can have sort of a minute
24 putting the case in context.

25 THE COURT: Spend as much time as you need to. You

1 are not held to a minute.

2 PLAINTIFF'S ATTORNEY: Anthony's case here is really
3 the latest consideration of this kind of juvenile sentencing
4 claim that started in *Roper v. Simmons*, 2005, which made
5 illegal the execution of juveniles, to *Graham v. Florida*,
6 which is permitting courts from imposing life without
7 possibility of parole sentences on juveniles convicted of
8 nonhomicide offenses. And that case was in 2009 and others
9 like it.

10 in *Aiken v. Byars*, 2014, the South Carolina Supreme
11 Court vacated all life parole sentences imposed on juvenile
12 offenses, concluding such sentences violated the 8th
13 Amendment against cruel and unusual punishments.

14 Following the constitutional directive of *Miller v.*
15 *Alabama*, 2012, the Court held that for juvenile offenders
16 being life without possibility of parole are entitled to new
17 individualized sentencing hearings where judges are required
18 to take into account the general characteristics of the youth
19 and any mitigating circumstances arising from the juvenile's
20 own background in determining the appropriate sentence.

21 So, specifically, the court in *Miller* established
22 the framework requiring resentencing courts to consider,
23 number one, the chronological age of the offender, and the
24 hallmark features of youth, including immaturity, impetuosity
25 and failure to appreciate risks and consequences; two, the

1 family home environment surrounding the offender; three, the
2 circumstances of the homicide offense, including the extent
3 of the youthful offender's participation in the conduct and
4 how familial and peer pressures may have affected him; and,
5 four, the incompetency associated with the youth, for
6 example, the offender's inability to really deal with law
7 enforcement officers and incapacity to really assist with his
8 own attorneys in defending himself. And then also, I think
9 very significantly, number five, the possibility of
10 rehabilitation.

11 So while Anthony's case is not an *Aiken* case, nor is
12 it a *Graham* case --

13 THE COURT: Nor is it a *Miller* case.

14 MS. FRANKLIN-BEST: Nor is it a *Miller* case,
15 exactly, but the case still implicates the same
16 constitutional concerns found by our state Supreme Court of
17 the United States Supreme Court. And that is that juvenile
18 offenders have a different constitutional status than adults
19 due to their immaturity and relative lack of culpability.
20 And it's because of this constitutional distinction that our
21 courts are drawing that litigation is going to continue to
22 continue.

23 There's movement afoot in the legislature to make
24 the 30-year mandatory minimum for juveniles unconstitutional
25 as a violation of the 8th Amendment. And then also the claim

1 here that the mandatory waiver provision that was operating
2 in his case, 16-19-20, is unconstitutional because it
3 unconstitutionally cabins a judge's discretion in deciding
4 whether a juvenile should even be subjected to adult
5 punishments. These issues are percolating throughout the
6 country.

7 The Court's trajectory has been largely consistent.
8 The law must account for, and in a meaningful way, the
9 juvenile's youth when it comes to criminal sentencing.

10 And in all candor to the Court, these cases are
11 ongoing. And I cannot tell this Court that there's currently
12 a court that has found this provision or one like it in
13 another state to be unconstitutional.

14 There was a case in the Ohio Supreme Court. And
15 it's *State v. Aalim*, where the full court, the Supreme Court,
16 found that a statute just like this one was unconstitutional.
17 The State then petitioned for rehearing. There was a
18 judicial election between the two opinions. And the Ohio
19 Supreme Court reversed their decision on that particular
20 case. So the one really great case we had has now
21 disappeared.

22 And for reasons I don't understand, because I
23 reached out to some of these attorneys, they did not seek to
24 serve in the United States Supreme Court at that point. But
25 I do believe that one day this statute is going to be found

1 to be unconstitutional.

2 If you read the plea, the plea in this particular
3 case, you will see that Judge Jefferson really expressed her
4 discomfort with what she was doing. And seemed like the kind
5 of case where a judge really should have the discretion to do
6 something other than what happened. And so, you know, I felt
7 it important to kind of raise this issue.

8 THE COURT: She had discretion. She had discretion
9 not to take the plea. She just opted not to exercise her
10 discretion not to take the plea.

11 MS. FRANKLIN-BEST: I think that's fair. Had she
12 not taken the plea, I think what would have happened, Anthony
13 would have had to go to trial instead. Seems clear that the
14 prosecutors really were not inclined to cut him any breaks
15 based on his youth. I think she served him best as she could
16 by giving him the mandatory minimum.

17 But in raising this claim, I do plan to take this
18 claim to the South Carolina Supreme Court to see if they are
19 interested in it. They've been very sort of alert on this
20 issue. Since *Aiken* came out, they have now come out with
21 *Slocumb*. So it's definitely an issue that's on their radar.
22 I'm hoping that Anthony gets the benefit of some change in
23 the law, either on his own case or some future changes in the
24 law.

25 In fact, right now, I think this month, the United

1 States Supreme Court will also be hearing a youthful case,
2 the Malvo from the DC sniper situation years back.

3 So no judge has taken into consideration Anthony's
4 individual characteristics in deciding that he was to be
5 given this mandatory minimum of 15 years. No one has really
6 sort of applied the *Aiken/Miller* factors with respect to
7 Anthony at all. And my argument is simply that I believe the
8 sentence here is unconstitutional. And I just ask this Court
9 to grant relief.

10 THE COURT: All right. Mr. Limbaugh.

11 MR. LIMBAUGH: May it please the Court, Your Honor.
12 First, briefly as to the YOA issue, the State argues that the
13 solicitor was under no obligation to offer Mr. Jones a YOA
14 sentence. And you heard testimony from Mr. Aylor that he did
15 try as hard as he could to get him a YOA sentence or a
16 lighter sentence that he could, and was, indeed, successful
17 in getting him the absolute minimum sentence that Mr. Jones
18 could possibly receive as an adult, 15 years continuous to
19 run concurrent.

20 Second, Your Honor, the State would argue that the
21 constitutionality of 63-19-20 is not a post-conviction relief
22 issue, Your Honor. There's no case then or since that has
23 held our statute to be unconstitutional. Judge Jefferson was
24 under no legal obligation to consider his individual youth
25 factors from *Miller* or *Aiken*. Clearly, Mr. Aylor cannot be

1 found ineffective for not arguing something that hasn't come
2 to exist. You can't hold counsel ineffective for failing to
3 be clairvoyant for something that hasn't even happened yet,
4 Your Honor.

5 So the State argues that clearly applicant has
6 failed to meet its burden with regards to the YOA allegation.
7 And the unconstitutionality of a currently and in the past
8 constitutional statute is not a grounds for post-conviction
9 relief. Thank you, Your Honor.

10 THE COURT: Okay. Here's what we are going to do on
11 this issue. I'm going to grant both sides 30 days to do
12 proposed orders on it. One of the things that I would like
13 briefed and addressed in that order, Ms. Best, is the Court's
14 ability to determine the statute unconstitutional in
15 post-conviction relief action when that issue was not
16 addressed during the plea colloquy nor raised on any appeal.

17 I am not saying I do or I don't have that authority,
18 because as I sit here right now, I've never done the research
19 on that issue. Does that make sense? But I am not saying
20 you are wrong or you are right. I'm just saying, in all the
21 PCRs I did as a lawyer and all the ones I've done as a judge,
22 the idea of the statute being unconstitutional has never been
23 raised.

24 So even the issue of -- that issue being allowed
25 before this Court in the way that this case is currently

1 framed, I would like that to be part of a proposed order.

2 Okay?

3 MS. FRANKLIN-BEST: Thank you, Your Honor.

4 THE COURT: If y'all get to the point where you need
5 more time, just communicate with us. I'm happy to give you
6 more time. I understand life happens and court happens and
7 kids get sick and all that kind of stuff. What becomes
8 frustrating for us is when there's just no communication. So
9 if you need more time, just let us know. That's perfectly
10 fine. I'm happy to give it to you. Just that one little
11 level of communication will make everything much smoother.

12 Okay?

13 Thank you, Mr. Jones. Have a nice day. Thank you,
14 mom and dad, for coming to the hearing. I appreciate that.

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CERTIFICATE OF REPORTER

I, Karen V. Andersen, Registered Merit Reporter,
Certified Realtime Reporter for the State of South Carolina
at Large, do hereby certify that the foregoing transcript is
a true, accurate and complete Transcript of Record of the
proceedings.

I further certify that I am neither related to nor
counsel for any party to the cause pending or interested in
the events thereof.


Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter



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

Robert E. Hood
Chief Administrative Judge - Civil

Post Office Box 192
Columbia, SC 29202-0192
Phone: (803) 576-1770
Fax: (803) 576-1772

January 29, 2020

Charleston County Clerk of Court
Attn: Julie Armstrong
100 Broad Street, Suite 106
Charleston, SC 29401-2258

RE: Anthony Allan Jones, II v. State of South Carolina
Case No.: 2017-CP-10-1880

Dear Ms. Armstrong:

Please find enclosed herewith the original *Order of Dismissal* which has been signed by Judge Hood in the above entitled matter. This is to respectfully request that it be filed accordingly.

Thank you for your time and we greatly appreciate your assistance. If you need anything further, please do not hesitate to contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Jeanne-Marie Bolin".

Jeanne-Marie S. Bolin
Administrative Assistant to
Judge Robert E. Hood

/jsb

Enclosure

CC
AG
AT
BS
SOL

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
)
ANTHONY ALLAN JONES, II,)
S.C.D.C. No. 370783)
)
Applicant,)
)
v.)
)
STATE OF SOUTH CAROLINA,)
Respondent.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2017-CP-10-1880

ORDER OF DISMISSAL

FILED
2020 JAN 31 PM 2:20
JULIE L. ARBUTHNOT
CLERK OF COURT

Anthony Allan Jones, II (“Applicant”) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court and Dorchester County Clerk of Court. During its October 2015 term, the Charleston County Grand Jury indicted Applicant for armed robbery. (2015-GS-10-5385). During its October 2015 term of court, the Dorchester County Grand Jury also indicted Applicant for first-degree burglary (2015-GS-18-1420). David Aylor, Esquire, represented Applicant on both charges.

On December 12, 2016, Applicant appeared in the Charleston County Court of General Sessions before the Honorable Deadra Jefferson, circuit court judge, and pled guilty as indicted to both offenses.¹ At this hearing, Applicant, who has his GED and was eighteen years old at the time of the plea, indicated he wanted to plead guilty to both offenses, was indeed guilty of both offenses, was satisfied with Mr. Aylor’s representation of him, understood the mandatory minimum and maximum sentences he could receive for each offense, had not been threatened or promised anything to induce his plea, and waived all of his constitutional rights to plead guilty. (Tr. 4-20). Pursuant to negotiations with the First Circuit Solicitor’s office, Judge Jefferson

¹ Applicant waived venue to plead to both charges in Charleston County. (Tr. 4-5, 7).

sentenced Applicant to fifteen years' imprisonment for first-degree burglary. Judge Jefferson sentenced Applicant to ten year's imprisonment of armed robbery. Judge Jefferson ordered both of these mandatory minimum sentences to be served concurrently. Applicant did not pursue any of his appellate rights following his guilty plea.

II.

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

1. Ineffective assistance of plea counsel, specifically: "Investigation is on-going, but it appears plea counsel did not undertake any investigation into the circumstances of Applicant's youth to mitigate Applicant's sentence, nor did he engage in any other meaningful plea negotiations on Applicant's behalf in violation of his right to the effective assistance of counsel. Lafler v. Cooper, 132 S.Ct, 1376 (2012), Missouri v. Frye, 132 S. Ct. 1399 (2012), Strickland v. Washington, 46 U.S. 668 (1984)."
2. "The automatic waiver provision of S.C. Code Ann. § 63-19-20 is unconstitutional" and "Applicant's sentence violates his right to be free from cruel and unusual punishment," specifically, Applicant was automatically treated as an adult pursuant to S.C. Code Ann. §63-19-20 which provides, in pertinent part: "'Child' or 'juvenile' does not mean a person 16 years of age or older who is charged with a Class A, B, C, or D felony ... or a felony which provides for a maximum term of imprisonment of 15 years or more." Applicant was 16 years old at the time of his crime. This statutory provision is unconstitutional because it does not allow discretion in the sentencing options for a defendant who was a juvenile at the time of the crime in violation of Applicant's right to due process. See Roper v. Simmons, 543 U.S. 551 (2005); Graham v. Florida, 560 U.S. 48 (2010); Miller v. Alabama, 132 S. Ct. 2455 (2012); Aiken v. Byars, 410 S.C. 534, 765 S.E,2d 572 (2014). Applicant's sentence is also cruel and unusual in violation of the Federal Constitution, Amendment 8. Applicant's sentence violates the South Carolina Constitution, Article I, §§3, 15."

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).

Applicant has alleged numerous instances of ineffective assistance of counsel against plea counsel, David Aylor. Each allegation is addressed fully below.

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. at 686; Butler, 286 S.C. at 442.

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. Id.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. at 687. 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 688). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Butler, 286, 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. 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.

Although courts may not indulge "post hoc rationalization" for counsel's decision making that contradicts the available evidence of counsel's actions, Wiggins v. Smith, 539 U.S. 510, 526-527, 123 S.Ct. 2527, 2537-2538 (2003), 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. Strickland, 466 U.S. at 688; Harrington v. Richter, 562 U.S. 86, 131 S.Ct. 770 (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.” Strickland, 466 U.S. 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 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. Applicant's allegation is addressed fully below:

Failure to investigate the circumstances of Applicant's youth to mitigate Applicant's sentence or engage in meaningful plea negotiations

Applicant alleges counsel was deficient for failing to investigate Applicant's youth to help in mitigating Applicant's sentence or engage in plea negotiations with the State.

The plea transcript is dispositive as to this issue. Counsel stated during the guilty plea that the Applicant was very young and asked if the Court to sentence Applicant to the minimum sentence. P. 23. The plea court specifically noted Applicant's youth multiple times and clearly took his age into consideration. P. 24-25. Applicant cannot satisfy either requirement of the Strickland test. It is clear from the record that Applicant received the mandatory minimum sentences for both offenses. Therefore, his assertions his counsel was ineffective for failing to present mitigation evidence is wholly without merit. This Court finds that Applicant has failed to meet his burden and this allegation is dismissed.

The automatic waiver provision of S.C. Code Ann. § 63-19-20 is unconstitutional and Applicant's sentence violates his right to be free from cruel and unusual punishment

The claims for relief allowed are limited by statute. Issues that could have been raised at trial or on direct appeal are not allowed. S.C. Code Ann. § 17-27-20(b). Therefore, PCR is not a substitute for an appeal and an issue that could have been raised at applicant's trial or on appeal is not cognizable in an application for PCR. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). Trial court error, therefore, is not a cognizable claim for PCR. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001); Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367 (1997); Ashley v. State, 260, S.C. 436, 196 S.E.2d 501 (1973). However, if applicant's trial counsel failed to object to the error or properly preserve it for appeal, then a proper claim is that counsel was ineffective for failing to object or properly preserve the issues. Drayton v. Evatt, 312 S.C. 4, 430 S.E.2d 517 (1993). This allegation is dismissed as not being a cognizable claim in a post-conviction relief proceeding. Any allegation that the waiver provision was unconstitutional or that Applicant's sentence was unconstitutional could and should have been raised either in a direct appeal or through the Federal Habeas procedures. Even if this Court interprets the allegation as a claim of ineffective assistance of counsel for failing to object or raise the issue, the allegation is still without merit. At the time of Applicant's plea, and to date, South Carolina's automatic waiver provision and Applicant's mandatory minimum sentence are considered constitutional. It is a long-standing rule that an attorney is not required to be clairvoyant and anticipate or discover changes in the law which were not in existence at the time of trial. Harden v. State, 360 S.C. 405, 409, 602 S.E.2d 48, 50 (2004) (citing Gilmore v. State, 314 S.C. 453, 457, 445 S.E.2d 454, 456 (1994)). Typically the rule arises in PCR matters where an applicant alleges defense counsel was ineffective for failing to present *at all* an argument or law not recognized or in effect until after trial. See, e.g. Robinson v. State, 308 S.C. 74, 417 S.E.2d 88 (1992) (counsel not deficient

in failing to argue battered spouse syndrome six years before its recognition in State v. Hill²); Teamer v. State, 416 S.C. 171, 183, 786 S.E.2d 109, 115 (2016) (counsel not deficient in failing to object to “reach the truth” jury instruction five years before its prohibition in State v. Daniels³); Winkler v. State, 418 S.C. 643, 653-54, 795 S.E.2d 686, 692 (2016) (counsel not deficient in failing to object to trial court’s refusal to answer jury question about what would happen if they failed to reach a unanimous sentencing verdict, where no precedent existed at the time of trial to support such an objection). Clearly, if counsel is not deficient for possessing clairvoyance when a law does in fact change, he is certainly not deficient for failing to challenge something that has to this date still not changed in favor of Applicant’s position. Therefore, this Court finds that Applicant has failed to meet his burden in showing any deficiency on the part of counsel and this allegation is dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel’s assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant’s behalf.

² State v. Hill, 387 S.C. 398, 339 S.E.2d 121 (1986).

³ State v. Daniels, 401 S.C. 251, 737 S.E.2d 473 (2012).

Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 29 day of Jan, 2020.

Re Hood

ROBERT E. HOOD
Presiding Judge
Ninth Judicial Circuit

C. J. ...

_____, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

ANTHONY ALAN JONES, II

AKA: Anthony A Jones II

Race: Black/African American

Sex: M

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Summerville, SC 29485-8848

DL# [REDACTED]

SID# SC02207902

*CDL Yes No CMV Yes No Hazmat Yes No

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

CONVICTED OF or

PLEADS

TO: Armed Robbery

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

NON-VIOLENT

VIOLENT

SERIOUS

MOST SERIOUS

Mandatory GPS

§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:

T. Richard Waring, Assistant Solicitor 100465 SC Bar #

Defendant

Attorney for Defendant 74974 SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,

for a determinate term of 10 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: 2015-GS-18-1420

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.

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 _____

Recipient: _____

Substance Abuse Counseling

*Fine: _____ \$ _____

Random Drug/Alcohol Testing

§14-1-206 (Assessments 107.5%) \$ _____

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

pmts. of \$ _____ Beginning _____

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

\$ _____ Paid to Public Defender Fund

§56-5-2995 (DUI Assessment) \$12 \$ _____

Other: _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

ATU if available -

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

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

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

3% to County (if paid in installments) \$ \$ 3.75

TOTAL \$ 128.75

Appointed PD or appointed other counsel, §47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk:

Callie

Court Reporter:

Ruth Weese

Presiding Judge:

SR Jaffer

Judge Code:

2128

Sentence Date:

12-12-16

TRW/0306342
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2015-020048

ARREST WARRANT NUMBER

2015A1010202785

DATE OF ARREST

06/28/2015

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

OCT 28 2015
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015-GS-10-05385

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2015

THE STATE

VS.

ANTHONY ALAN JONES

B/M DOB: [REDACTED]

Indictment for

ARMED ROBBERY

SC Code: § 16-11-0330(A)

CDR Code: 0139

FILED

10/28/2015 10:23:12 AM
JULIE J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

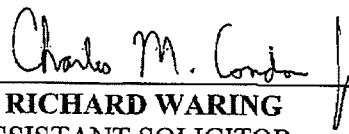
INDICTMENT

At a Court of General Sessions, convened on October 5, 2015, the Grand Jurors of Charleston County present upon their oath:

ARMED ROBBERY

That on or about June 28, 2015, in Charleston County, South Carolina, the Defendant, Anthony Alan Jones, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Adam Corbett with the intent to permanently deprive the victim of possession thereof, in violation of §16-11-330(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.

for 
T. RICHARD WARING
ASSISTANT SOLICITOR

ARREST WARRANT

2015A1010202785

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

THE STATE
against

Anthony Alan Jones

Address:
Summerville, SC 29485-8848

Phone:
Sex: M Race: B Height: 5 7 Weight: 130
DL State: SC DL #:
DOB:
Agency ORI #: SC0100800
Prosecuting Agency: North Charleston Police Department
Prosecuting Officer: Ryan Terrell - 0410
Offense: Robbery / Armed Robbery, robbery while armed or
allegedly armed with a deadly weapon
Offense Code: 0139
Code/Ordinance Sec: 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Personally appeared before me the affiant Ryan Terrell / C BRAZIL who
being duly sworn deposes and says that defendant Anthony Alan Jones
did within this county and state on or about 6/28/2015 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of Charleston)
in the following particulars:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Affiant's Address 2500 City Hall Lane
North Charleston, SC 29406-
Affiant's Telephone (843)554-5700

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/28/2015 defendant Anthony Alan Jones

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 6/29/2015

Signature of Issuing Judge
Priscilla Bridges Baldwin
Judge Code: 5749

(L.S.)

Judge's Address 3831 Leeds Avenue, Ste 200
North Charleston, SC 29405-7469
Judge's Telephone (843)746-9822

Issuing Court: Magistrate Municipal Circuit

BALL set by
Priscilla B. Baldwin

WITNESSES

Judge _____
on 6/29/2015
Type and Amount: _____
Name of Surety: 100,000

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Name: _____
Address: _____
Telephone: _____

Decision: _____

Name: _____
Address: _____
Telephone: _____

DISPOSITION before

Judge _____
on _____
by _____
(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Name: _____
Address: _____
Telephone: _____

Disposition: _____
Sentence: _____

Name: _____
Address: _____
Telephone: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



FILED
2015 JUL -6 AM 9:37
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

**STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON AFFIDAVIT
CITY OF NORTH CHARLESTON**

OCA# 2015020048
INV: Pfc. R. Terrell

Personally appeared before me, a magistrate of this County, one **L BRAZIL**
who first being duly sworn, deposes and says that (name of the defendant)

Anthony Alan Jones *(Signature)*

did within this County and State on the 28th day of June,
2015, violate the criminal laws of the State of South Carolina in the following particulars:

**DESCRIPTION OF OFFENSE
ARMED ROBBERY
16-11-330**

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

On June 28th, 2015, at approximately 1455 hrs, while at 8976 University Blvd., located in the City of North Charleston, County of Charleston, State of South Carolina, the defendant, **Anthony Alan Jones** *(Signature)* did commit the offense of **ARMED ROBBERY** in violation of section **16-11-330** the South Carolina code of laws. In that the defendant did willfully and unlawfully rob the victim one Adam Corbett at gun point along with codefendant.

Facts to establish the aforesaid are that on June 28, 2015 at approximately 1455 hours the defendant acted in concert with codefendant Harris, who pointed a firearm at the victim in order to deprive him of his laptop. The victim pointed out the vehicle to Pfc. Terrell as it drove by. A pursuit began and the codefendant wrecked the vehicle. The defendant and his co-defendant fled the vehicle and were located nearby. The victim's laptop was found and recovered in the defendant's vehicle. Per SC Code 16-1-60 Armed Robbery is listed as a violent crime.

Adam Corbett, Pfc. R. Terrell, Pfc. C. Cisco, and Ptl. Rossillo are witnesses to prove the same. All against the law, peace, and dignity of the state of South Carolina.

Sworn to and Subscribed before me
this _____ day of JUN 29 2015
2015__.

(Signature)

Signature of Judge

(Signature)

(AFFIANT)

Address: _____

Phone: _____

15 LIFE (Concurrent w/ (has. City Case)
STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 15-LIFE

COUNTY OF Dorchester
STATE VS.
Anthony Alan Jones, IT NEW
AKA:
Race: BLACK Sex: M Age: 18
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: Summerville, SC 29485
DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2015GS18-1420
A/W#: 2015A1820500477
Date of Offense: 6/7/2015 CERTIFIED COPY
S.C. Code § : 16-11-311 4/14/2017
CDR Code #: 0079

SENTENCE SHEET *Cheryl Graham*
Clerk of Court
Dorchester County

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Burglary - First Degree

CONVICTED OF or PLEADS

in violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC § 17-25-45 w/minor 1st or Lewd Act)

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

ATTEST: *Justis, Glenn P.* *76606* *Defendant* *Attorney for Defendant* *74974*
Justis, Glenn P. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____, plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: 2015-GS-10-5385
 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.
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered FTUP _____
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 Set by SCDPPPS _____

Recipient: _____
*Fine: \$ _____
§ 14-1-206 (Assessments 107.5%) \$ _____
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 125.00
§ 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/Probation) \$500 \$ _____
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____
§ 50-21-114(BL) Breath Test Fee) \$50 \$ _____
§ 56-5-2942(J) (Vehicle Assessment) \$40/cv \$ _____
3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk *Callie*
Court Reporter *Ruth Weese*
SCCA/217 (07.2016)

_____ days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: Att if available

Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.
Presiding Judge *Al Jones*
Judge Code: 2128
Sentence Date: 12-12-16

CLERK OF COURT
DORCHESTER COUNTY
MASSACHUSETTS

WITNESSES

Kenneth Driscoll

Summerville Police Department
15-045819

ARREST WARRANT NUMBER
2015A1820500477

Arrested: August 28, 2015

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury
Date: October 1, 2015

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2015GS18-1420

The State of South Carolina
County of DORCHESTER

COURT OF GENERAL SESSIONS

October 5, 2015 TERM

THE STATE
vs.

Anthony Alan Jones

Indictment for
Burglary - First Degree

SC Code: 16-11-311

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

Defendant

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

Defendant

Witness:

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

FILED - RECORDED
2015 OCT -1 PM 12:18
CHERYL SARRAH
CLERK OF COURT
DORCHESTER COUNTY

CERTIFIED COPY
4/19/2017
[Signature]
Clerk of Court
Dorchester County

ARREST WARRANT

2015A1820500477

STATE OF SOUTH CAROLINA

County/

Municipality of

Summerville

THE STATE against

Anthony Alan Jones

Address:

Summerville, SC 29485-8848

Phone: SSN:

Sex: M Race: Height: 5 7 Weight: 130

DL State: SC DL #:

DOB: Agency ORI #: SC0180200

Prosecuting Agency: Summerville Police Department

Prosecuting Officer: Kenneth Driscoll - 0082

Offense: Burglary / Burglary (After June 20, 1985) - First degree

Offense Code: 0079

Code/Ordinance Sec: 16-11-0311

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Jones, Anthony Alan on 08-29-15

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions 5200 E. Jim Bilton Blvd. St. George, SC 29477

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA) County/) Municipality of) Summerville)

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

Personally appeared before me the affiant Kenneth Driscoll who being duly sworn deposes and says that defendant Anthony Alan Jones did within this county and state on or about 6/7/2015 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Summerville) in the following particulars:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

See attached affidavit

CERTIFIED COPY

4/14/2017 Cheryl Graham Clerk of Court Dorchester County

Signature of Affiant

Signature of Affiant (Handwritten)

STATE OF SOUTH CAROLINA) County/) Municipality of) Summerville)

Affiant's Address 300 West 2Nd North Street Summerville, SC 29483- Affiant's Telephone (843)871-2463

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 6/7/2015 defendant Anthony Alan Jones did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Summerville) as set forth below:

DESCRIPTION OF OFFENSE: Burglary / Burglary (After June 20, 1985) - First degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 8/12/2015

Signature of Issuing Judge (L.S.) David Wesley Whitington Judge Code: 8032

Judge's Address 200 S. Main Street Summerville, SC 29483- Judge's Telephone (843)875-2010

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

CERTIFIED COPY

Charles H. [Signature]

Clerk of Court
Conchester County

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)
TOWN OF SUMMERVILLE)

CASE # 15-045819
AFFIDAVIT
WARRANT #2015A1820500477

Personally appeared before me, one DET. K. DRISCOLL who, first being duly sworn, deposes and says that

ANTHONY ALAN JONES

did within this town, county and state on the 7th of June 2015, violate section 16-11-311 of the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE


**BURGLARY 1st DEGREE
VIOLATION OF SECTION 16-11-311**

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on June 7th, 2015, while located at [REDACTED] (Brandy Mill Sub-Division), in the town, county, and state aforesaid, the defendant, one Anthony Alan Jones, did willfully, unlawfully, and feloniously, violate statute 16-11-311 of the South Carolina code of laws, (1976), as amended, **Burglary 1st Degree**, in that the defendant did gain entry into the above dwelling without consent or knowledge of the victim, and with the intent to commit a crime therein. Facts to prove the above is a police report filed by victim stating she lives at the aforementioned address, and that on the above date, her residence had been entered, and property therein taken, to include one black in color Taurus .38 special pistol, model number 2-850021UL, serial number BP30833. The affiant was notified the latent fingerprints collected from the victim's residence were processed by the South Carolina Law Enforcement Division Forensic Services Laboratory, which was later identified as being the defendant. The affiant also discovered on June 28th, 2015, the defendant and co-defendant (Tiquan Harris) were arrested by the North Charleston Police Department (case # 2015020048) for Armed Robbery, recovered during the arrest of the defendant and co-defendant, the victim's stolen Taurus .38 special pistol, model number 2-850021UL, serial number BP30833 was recovered. The victim advised she doesn't know the defendant and gave him permission to entry her residence to take, carry away, steal or arm himself with her property. All of which is against the form of the statute of such cases made and provided.


Affiant

Sworn to Subscribed before me
this 12 day of August 2015.

 (L.S.)
Signature of Judge

Address: 300 W 2nd North St.
Summerville, SC 29483
Phone: (843) 851-4100