

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Florence County

Honorable William H. Seals, Circuit Court Judge

ORLANDO PAUL,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001332

APPENDIX

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RECEIVED

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S.C. SUPREME COURT

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State of South Carolina	)	Court of General Sessions
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2015-GS-21-00272
	)	Case No. 2015-GS-21-00465
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Orlando Paul,	)	
	)	
Defendant.	)	
	)	

January 14, 2016
 Florence, South Carolina

B E F O R E:

The Honorable D. Craig Brown, Judge

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

Todd Tucker, Esquire
 Attorney for the Plaintiff

William "Vick" Meetze, Esquire
 Attorney for the Defendant

Krystal J. Smith
 Circuit Court Reporter

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21	dashes --	intentional or purposeful interruption		
22		or change in thought		
23	ellipses . . .	trailing off		
24	[ph]	phonetically written		
25	[sic]	written as said		

1 JANUARY 14, 2016

2 (WHEREUPON, the proceedings began at 10:42 a.m. The
3 defendant was present, along with his counsel of
4 record.)

5 MR. TUCKER: Orlando Paul.

6 THE PROBATION AGENT: He's currently on community
7 supervision.

8 THE COURT: All right. Yes, sir?

9 MR. TUCKER: Thank you, Your Honor. May it please the
10 Court.

11 Standing before you is Orlando William Paul. He is
12 pleading guilty on two indictments, the first of which is
13 2015-GS-21-0272. He is pleading guilty to two counts of
14 attempted murder for which he could get up to 30 years for
15 each offense.

16 He's also pleading guilty to armed robbery. The
17 sentence on that is a mandatory minimum 10 up to 30 years.

18 He's also pleading guilty on 2015-GS-21-0465. That is
19 for arson third degree for which he could get up to 15 years.

20 This is a negotiated plea with a negotiated sentence of
21 28 years, Your Honor, for everything to run concurrent.

22 And, Your Honor, there's a brief housekeeping matter
23 that we may attend to before we get started with regards to a
24 Blair issue.

25 THE COURT: All right.

1 MR. TUCKER: Your Honor, while this case was pending, an
2 order was signed for Mr. Paul to be transported to Columbia
3 for purposes of a mental health examination. That was
4 performed on September the 14th, 2015, by Matthew E. Gaskins,
5 a medical doctor and forensic psychiatrist with the
6 Department of Mental Health. Also by Mary Gridine [ph], who
7 is a licensed social worker.

8 At the conclusion of the evaluation in which they
9 interviewed Mr. Paul and examined accompanying documents, Mr.
10 Paul was found to be competent to stand trial. He was also
11 found to be able to differentiate between right and wrong for
12 purposes of criminal responsibility.

13 At any rate, Your Honor, I'd like to hand up these
14 particular findings up to the Court to be made a part of the
15 record. And I do not believe there are any issues today with
16 regards to his ability to understand what's going on. I
17 believe Mr. Meetze has a copy of that as well.

18 THE COURT: Mr. Meetze, anything that you'd like to
19 address as it relates to this?

20 MR. MEETZE: No, Your Honor.

21 THE COURT: You've received the report that Mr. Tucker
22 just handed me?

23 MR. MEETZE: I have.

24 THE COURT: You've reviewed it --

25 MR. MEETZE: Yes, sir.

1 THE COURT: -- in its entirety?

2 MR. MEETZE: Yes, Your Honor.

3 THE COURT: Had sufficient time to review it and talk to
4 your client about it?

5 MR. MEETZE: Yes, Your Honor. We don't dispute anything
6 in there. We are not contesting the findings that are in the
7 report in any manner.

8 THE COURT: All right. All right. Therefore, the Court
9 will adopt the findings by the South Carolina Department of
10 Mental Health as it relates to competency and criminal
11 responsibility as determined by Dr. Matthew Gaskins. Such
12 reports will be made a part of the record, filed under seal,
13 not to be opened absent a court order.

14 Any objection to that, Mr. Meetze?

15 MR. MEETZE: No, Your Honor.

16 THE COURT: Mr. Tucker?

17 MR. TUCKER: No, Your Honor.

18 THE COURT: All right.

19 (WHEREUPON, the competency evaluation report was marked
20 and entered as State's Exhibit Number 1 and sealed.)

21 THE COURT: Sir, if you'd raise your right hand, please.
22 Do you swear to tell the truth, the whole truth, and nothing
23 but the truth, so help you God?

24 THE DEFENDANT: I do.

25 THE COURT: All right. You can put your hand down. You

1 are Orlando Paul? Excuse me. Orlando William Paul?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you ever been treated for alcohol
4 abuse, drug abuse or mental illness?

5 THE DEFENDANT: Mental illness.

6 THE COURT: When was that, sir?

7 THE DEFENDANT: It started in 2004.

8 THE COURT: All right.

9 THE DEFENDANT: Up until the present.

10 THE COURT: Does that in any -- does that in any way
11 affect your ability to know and understand what you're doing
12 here today?

13 THE DEFENDANT: No, sir.

14 THE COURT: Within the last 24 hours, have you taken any
15 medication, drugs or alcohol?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: What have you taken?

18 THE DEFENDANT: I take Olanzapine and Trazodone every
19 day.

20 THE COURT: Is that doctor-prescribed medication?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Does that in any way affect your ability to
23 know and understand what you're doing here today?

24 THE DEFENDANT: No, sir.

25 THE COURT: Are you aware of any physical, emotional or

1 nervous problem that would prevent you or keep you from
2 understanding what's going on here today?

3 THE DEFENDANT: No, sir.

4 THE COURT: Now, the State indicates that you're
5 pleading guilty to two counts of attempted murder, along with
6 an armed robbery and an arson third degree; is that correct?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand that each of these
9 attempted murder charges, as well as the armed robbery --
10 that each of those offenses are considered under South
11 Carolina law to be violent offenses? Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Furthermore, do you understand that each of
14 those offenses are considered to be most serious offenses as
15 well? Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: As it relates to each of those charges, the
18 most serious offenses being the armed robbery -- excuse me.
19 Yeah, the armed robbery and the two counts of attempted
20 murder. Do you understand that under South Carolina law if
21 upon your release you're convicted by plea or trial of
22 another most serious offense and the State has properly
23 noticed you of their intent to seek life without parole, the
24 Court would have no alternative but to give you life? Do you
25 understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Now, do you understand also that whatever
3 sentence this Court imposes -- and it's a negotiated
4 sentence. If I go along with it and impose the negotiated
5 sentence, that you can count on doing pretty much day for
6 day? Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Understanding the consequences of pleading
9 to most serious offenses, as well as the consequence of
10 pretty much doing day for day on whatever -- on the sentence
11 imposed by the Court, do you still want to plead guilty to
12 these charges?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Now, as it relates to the attempted murder
15 charges, the armed robbery charge, the State has indicated
16 that they've negotiated a -- a plea with your lawyer and that
17 the negotiation be that this Court impose a 28-year sentence.
18 Is that your understanding?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: On the arson third degree, the State has
21 indicated that they have negotiated with your lawyer a 15-
22 year sentence on that particular charge. Is that your
23 understanding?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Now, you understand that the attempted

1 murder charges carry a maximum penalty of 30 years? Do you
2 understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: That the armed robbery charge carries a
5 maximum -- or a minimum of 10 and a maximum of 30? Do you
6 understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And you understand the arson third degree
9 carries a maximum of 15 years?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. Now, under the negotiated plea,
12 do you understand the Court can accept this negotiation and
13 impose the sentence that the State and your lawyer has worked
14 out on your behalf or I can reject it and let you plead in
15 front of another judge on a different day? Do you understand
16 that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Is it your desire that I accept this
19 negotiated plea and sentence you to the 28 years on the
20 attempted murder, two counts, the armed robbery, and the 15
21 years on the arson third degree? Do you -- do you wish that
22 this Court or desire this Court to go along with that
23 negotiation?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Now, do you understand when you

1 plead guilty, you give up certain important constitutional
2 rights?

3 Do you understand you have a right to a jury trial? At
4 a jury trial, I would tell them that you're presumed
5 innocent, that the State has to prove you guilty beyond a
6 reasonable doubt. You'd have the right to question witnesses
7 against you.

8 You'd have the right to remain silent. If you went to
9 trial and did remain silent, I'd tell the jury that they
10 could not hold that against you.

11 You would have the right to present a defense, although
12 you're not required to do so. If you made any incriminating
13 statements, you would have a right to challenge the
14 admissibility of those statements.

15 Do you understand those rights?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand when you plead guilty you
18 give up those rights?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Understanding your rights and understanding
21 that when you plead guilty you give them up, how do you plead
22 here today? Guilty or not guilty as to each of these
23 charges?

24 THE DEFENDANT: Guilty.

25 THE COURT: All right. You're represented by Mr.

1 Meetze. Are you satisfied with his representation?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you talked to him enough?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Have you understood all of your talks with
6 him?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you need any more time to talk to him?

9 THE DEFENDANT: No, sir.

10 THE COURT: Do you have any complaints about him
11 whatsoever?

12 THE DEFENDANT: No, sir.

13 THE COURT: Has anyone promised you anything or held out
14 any hope of reward to get you to plead guilty?

15 THE DEFENDANT: No, sir.

16 THE COURT: Has anyone used any threats, force, pressure
17 or intimidation to get you to plead?

18 THE DEFENDANT: No, sir.

19 THE COURT: Anyone mistreated you in any way, whether it
20 be law enforcement or Solicitor's Office?

21 THE DEFENDANT: No, sir.

22 THE COURT: Have you had enough time to make up your
23 mind as to whether or not you want to plead guilty or go to
24 trial on these charges?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: What do you wish to do?

2 THE DEFENDANT: I wish to plead guilty.

3 THE COURT: Are you pleading guilty as to each of these
4 charges of your own free will?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Have you understood my questions?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Mr. Tucker?

9 MR. TUCKER: Thank you, Your Honor. May it please the
10 Court.

11 Your Honor, before I begin with a recitation of the
12 facts, I want to make the Court aware that the victims in
13 this matter, Mr. Adunte Gibson and Ms. Latasha Davis, are
14 present and they are seated to the right in the back of the
15 courtroom. I know that they both want to address the Court
16 at the appropriate time.

17 Your Honor, this incident occurred on October the 11th,
18 2014, at or around 11 a.m. The incident location is [REDACTED]
19 Cannon Street in the city of Florence. Around that time,
20 officers with the Florence Police Department responded to a
21 gunshot complaint.

22 When they arrived, they actually arrived at a house
23 adjacent to the incident location on Pennsylvania Street.
24 There, they made contact with the person who had called
25 9-1-1, a Ms. Sheila Dixon, and her sister, Dana Cooper. They

1 indicated that they were in the residence when they heard
2 what they described as gunshots from the outside.

3 Ms. Cooper indicated to law enforcement that she was
4 actually in the front of the house when a short time after
5 the gunshots someone just more or less just kind of fell
6 through the door, opened the door and kind of collapsed on
7 the inside. That person was later identified as Mr. Adunte
8 Gibson. Mr. Gibson told the occupants of the house that he'd
9 been shot and that his wife had also been shot, but he didn't
10 know where she was at that particular time.

11 When they called 9-1-1, Mr. Gibson wanted to I think get
12 up and kind of go back out and check on the welfare of his
13 wife, Ms. Latasha Davis. Ms. Davis, who had also been shot,
14 had kind of gotten out of the vehicle and laid down in a
15 field.

16 Once they were transported to the hospital,
17 investigation -- or investigators began to piece together
18 what happened after speaking to Mr. Gibson particularly. He
19 indicated that the individual responsible for the shooting he
20 identified as Orlando. He knew him as Cheese. They
21 ultimately were able to identify the suspect as Orlando
22 William Paul.

23 Subsequently, they were able to talk to Ms. Davis when
24 she came out of surgery, but from what they gathered from the
25 both of them and from the investigation, both Mr. Gibson and

1 Ms. Davis knew Mr. Paul. In fact, I believe Ms. Davis had
2 known him from years back. She had relocated to Florida, and
3 she and Mr. Gibson had recently come back to Florence I think
4 about a couple of weeks before this incident occurred.

5 A couple of weeks prior to the shooting incident, Ms.
6 Davis and Mr. Gibson had run into Mr. Paul at a location.
7 They struck up a conversation. Ms. Davis -- having known Mr.
8 Paul from years back, they started to associate with one
9 another.

10 There was a deal where they would obtain cell phones
11 from Walmart and different places and put them on Craigslist
12 and eBay and sell them for a profit. It was in that context
13 that Mr. Gibson and Ms. Davis picked up Orlando Paul at about
14 9 a.m. that morning of the incident. They indicated that
15 they had gone to Walmart ostensibly to get cell phones, but
16 one thing led to another and they wound up not getting any
17 cell phones.

18 At any rate, Mr. Paul got into the back of the vehicle
19 that they were riding in. Ms. Davis was driving. Mr. Gibson
20 was riding in the front passenger seat. They indicated that
21 Mr. Paul directed them to a location off of West Darlington
22 Street to a house he said he had to go in and meet with
23 somebody, but he'd be right back. They dropped him off
24 there. He was in a short time thereafter and came back out.
25 He then directed them to drive him to ■ Cannon Street. He

1 had some business there.

2 And it was at this point, when they pulled into the
3 driveway, both victims indicated that they thought that Mr.
4 Paul was sliding close to the door to get out of the vehicle
5 and, unexpectedly and suddenly, Mr. Gibson indicated that he
6 heard a gunshot and realized that he was being shot. Total,
7 I believe Mr. Gibson was shot four times.

8 Ms. Davis, who was driving -- she indicated that she
9 felt something kind of hard against the back of her head and
10 she actually thought that she'd been hit by the gun, but as
11 it turns out, she was actually shot in the neck. She
12 ultimately was shot two times.

13 Mr. Gibson indicated that as soon as he was shot, he was
14 able to get out and run. At this point, Mr. Paul got out and
15 went around to the driver's side, pointed the gun at Ms.
16 Davis, who was shot once and then twice, and wanted to know
17 where the money was, and she indicated that she told him
18 there was some in the glove box just to kind of distract him
19 so she could get out and run for it.

20 She indicated that when he turned his head, she was able
21 to get out and run to an adjacent lot that had some overgrown
22 weeds, and she more or less just kind of laid down there.
23 She indicated that she heard Mr. Paul get into the vehicle
24 and then take off in it, and I believe there was a cell phone
25 or two still in there.

1 But at any rate, he made off with the vehicle. She
2 indicated that it was at this point that she got back up and,
3 as she was kind of running in the direction she saw her
4 husband running in, she ran into him and they were able to go
5 back to Ms. Dixon's place, where they waited on the EMS units
6 to arrive.

7 A short time thereafter, the vehicle -- once they
8 described the vehicle that Mr. Paul had stolen from them over
9 -- or to law enforcement, they put a description out on a
10 BOLO. It was found in the east part of Florence County over
11 off of East Palmetto Street. Apparently, the vehicle had
12 been set ablaze. After a short investigation, they realized
13 that that was the vehicle wanted in connection with the
14 shooting and that was the vehicle that belonged to Ms. Davis
15 and Mr. Gibson.

16 Later on that evening as they, at this point, had
17 identified Mr. Paul as a suspect, I believe Ms. Davis had
18 just come out of surgery and was able to kind of firm up the
19 identification and they were able to identify him and try to
20 find out where Mr. Paul was.

21 At this point, I can tell you that Ms. Davis had to
22 undergo surgery. She was in intensive care for a while. Mr.
23 Gibson also had to receive medical treatment for his gunshot
24 wounds. I think, ultimately, some of the rounds are still in
25 him as the surgeon deemed it was too hazardous to go in to

1 try to retrieve them. So he's actually walking around with
2 two -- I think at least two of the bullets still inside.

3 At any rate, Your Honor, they weren't able to locate Mr.
4 Paul. Later on that evening, Mr. Paul actually called 9-1-1
5 on -- I believe it was Mr. Gibson's cell phone that he had
6 taken and was talking to them and was kind of speaking
7 incoherently or speaking in riddles.

8 But at any rate, they were able to identify him as he
9 was wanted in connection with the shooting. They traced the
10 phone call back to an abandoned house. Once officers made
11 entry, they found Mr. Paul inside the residence.

12 Apparently, Mr. Paul had tried to cut his wrists, but he
13 was kind of covered in blood and there was a knife found
14 close by. They retrieved a suicide note, for want of a
15 better description, and it described kind of what went on
16 there, but it was kind of cryptic.

17 But at any rate, they had no doubts that that was Mr.
18 Paul and they took him into custody. Based on the
19 identifications of both victims and all the attendant
20 circumstances, Mr. Paul was arrested and charged accordingly.

21 I can tell you, Your Honor, that when I first looked at
22 the file, I had to look again because I actually thought it
23 was a double murder, to be quite honest, based on the
24 description of the investigators who went out to the scene.
25 It's just a wonder that Ms. Davis didn't die, and it's a

1 wonder that Mr. Gibson didn't as well.

2 But at any rate, Your Honor, we had actually served Mr.
3 Paul with notice to seek life without possibility of parole
4 had we gone to trial and had we been able to convict him. He
5 has a prior conviction in 1996 for common-law robbery. He
6 also has a 2004 conviction for armed robbery out of Horry
7 County and, in fact, I think he hadn't been out of the
8 penitentiary long before this incident happened. I believe
9 he was still on a -- or on community supervision when this
10 happened.

11 I will tell you, Your Honor, that we talked to the
12 victims and we spoke at great length about what we thought
13 was appropriate. And at 28 years, given his age, we felt
14 that this was an appropriate sentence and, certainly, that
15 would spare the victims the ordeal of having to recount what
16 happened in a courtroom in front of a jury.

17 So taking all those factors into consideration, we've
18 structured the plea as we've submitted it to you.

19 Again, Your Honor, I know that both victims probably
20 want to address the Court at the appropriate time.

21 THE COURT: Let me ask Mr. Paul this. Mr. Paul, how
22 much -- well, let me ask probation. He's still -- he's on
23 community supervision?

24 THE PROBATION AGENT: Yes, sir. His case is scheduled
25 to close January 16th, 2016. He's on community supervision

1 for an armed robbery case out of Horry County. He has a
2 pending violation for not reporting, failing a drug test, and
3 probable cause that he committed the offenses that he's
4 pleading to today. He has a total of two years over his head
5 for the community supervision revocation.

6 THE COURT: Mr. Meetze, have you talked to him about
7 that?

8 MR. MEETZE: Your Honor, I did talk to him about it this
9 morning. I think we've talked about it before, but I've been
10 over it. It sort of skipped my mind a little bit that he had
11 had that, but if the Court would give me just a second --

12 THE COURT: Okay.

13 MR. MEETZE: -- I'll talk to him.

14 (WHEREUPON, there was a pause in the proceedings, after
15 which the proceedings resumed as follows.)

16 MR. MEETZE: Your Honor, he's ready to move forward with
17 that.

18 THE COURT: Mr. Paul, you understand your plea here
19 today is a violation of that community supervision?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: That would subject you to some additional
22 time?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you still want to go forward with this
25 plea?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Now, you heard the facts as stated by Mr.
3 Tucker as it relates to the charges that you stand before the
4 Court on today. Do you agree with those facts?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you guilty of each of these charges?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And how do you plead? Guilty or not guilty?

9 THE DEFENDANT: Guilty.

10 THE COURT: All right. I find there is a substantial
11 factual basis for this plea. I also -- for these pleas. I
12 also find defendant's decision to plead guilty to each of
13 these charges has been entered into freely, voluntarily,
14 knowingly, and intelligently. That he's had the advice and
15 counsel of an attorney with whom he's indicated he's
16 completely satisfied. I'll accept his plea as to each of
17 these charges.

18 Before I hear from you, Mr. Meetze, let me hear from Mr.
19 Gibson and Ms. Davis.

20 Mr. Gibson, if you'd stand. You can come right around
21 here. Tell me your full name for the record, please.

22 MR. GIBSON: Adunte Maurice Gibson.

23 THE COURT: Would you spell your first name for the
24 record?

25 MR. GIBSON: A-d-u-n-t-e.

1 THE COURT: Okay. I'm happy to hear from you, sir.

2 MR. GIBSON: Yes, sir. My only thing I wanted to know
3 is, like, for me, I understood that you didn't know me that
4 well, you know. You wanted to try to rob or come at me, but
5 somebody you know, a woman, why would you shoot her in the
6 back? You know that? Still, that's a puzzle to me. I guess
7 because she being your friend. I mean you're a coward, man,
8 straight up.

9 THE COURT: All right. Thank you, sir.

10 All right. Ms. Davis, tell me your full name for the
11 record.

12 MS. DAVIS: Latasha Davis.

13 THE COURT: Please direct any comments to me. Okay?

14 MS. DAVIS: Yes, sir.

15 THE COURT: Yes, ma'am. I need you to speak up. Okay?

16 MS. DAVIS: Yes. There's a lot that I want to say, but
17 I'll make it short. It's just that he want to play insane,
18 but he had the common sense to call my name when he got out
19 of the vehicle. He hit me in the back of the head and
20 demanded money. So he wasn't too insane. You know, he knew
21 what he was doing because he already had everything planned
22 out.

23 But like my husband said, I've known him for years and I
24 brought him back in the picture with my husband and I thought
25 -- I ain't never thought that somebody who I know would do me

1 like that. So it's kind of hard to trust anybody now. Like,
2 somebody who I thought I've known, I don't. That's all I got
3 to say.

4 THE COURT: Thank you. All right. Mr. Meetze?

5 MR. MEETZE: Thank you, Your Honor. May it please the
6 Court.

7 Your Honor, I have been over with Mr. Paul the guilty
8 plea affidavit that's been filled out and signed by him on
9 this day. I'd like to approach and hand that up and make
10 that a part of the record as well.

11 Otherwise, Your Honor, you know, Mr. Paul and I have
12 been working together now for a little while and have
13 obviously been over his case and talked about it. I agree
14 with his decision to enter his plea.

15 With regards to the community supervision violation, the
16 warrant for that was served on him on October the 13th, 2014,
17 and certainly, he's been incarcerated since that time. He
18 was arrested actually just the day before that on October the
19 12th.

20 I think that the law with regard to the community
21 supervision program is that it can be up to a one-year
22 revocation as it is, which obviously he's done over that
23 since the service of his warrant. So certainly, we would
24 just ask the Court to revoke that and give him credit for the
25 365 days that he would have done towards that. Otherwise, in

1 total on the charges he's pleading to, he would have been in
2 for 104 -- 106 -- excuse me -- 460 days.

3 Again, Your Honor, in my experience in these kind of
4 cases is that you're always left with more questions than
5 answers many, many times, and I think that's the case in this
6 one. It's certainly -- it's certainly sad, but I think that
7 the resolution has been presented to the Court here today is
8 an appropriate one, and we would ask the Court to go along
9 with the negotiations in this matter.

10 THE COURT: All right.

11 MR. TUCKER: Judge?

12 MS. DAVIS: I have one more thing to tell you.

13 THE COURT: Yes, ma'am?

14 MS. DAVIS: If he did it to somebody he know, he just
15 got out 10 years ago to rob somebody he didn't know, but he
16 tried an attempted murder on somebody he knew. So there
17 ain't no telling what he could do when he get out again.

18 So he should get every time that he should get. It
19 shouldn't be no revoking anything because he's still getting
20 time, but work with him, give him 180 or whatever, but no, I
21 think he should get every day that he deserve.

22 THE COURT: Thank you.

23 THE DEFENDANT: (Whistles. Unintelligible muttering.)

24 THE COURT: Hold it down.

25 Mr. Paul, anything you want to tell me, sir?

1 THE DEFENDANT: Yes, sir. There's no excuse for what
2 happened. I have a lot of remorse for what happened. Like
3 the people said that we were friends, you know. I can't
4 explain what happened, why it happened, but I am sorry. I do
5 feel a lot of remorse and guilt, and I've spent many restless
6 nights, you know, thinking about what has happened and what's
7 going to happen. I just want to say I'm sorry.

8 (WHEREUPON, there was a pause in the proceedings, after
9 which the proceedings resumed as follows.)

10 THE COURT: All right. Anything further from the State?

11 MR. TUCKER: No, Your Honor.

12 THE COURT: Make that a Court's exhibit, please.

13 (WHEREUPON, the guilty plea affidavit of defendant was
14 marked and entered as Court's Exhibit Number 1.)

15 SENTENCE

16 THE COURT: On Indictment 2015-GS-21-00272 as it relates
17 to the two counts of attempted murder, as well as the armed
18 robbery, the defendant is committed to the State Department
19 of Corrections for a period of 28 years.

20 On 2015-GS-21-00465, arson third degree, the defendant
21 is committed to the State Department of Corrections for a
22 period of 15 years.

23 Give him credit for 460 days. To run concurrent.

24 THE PROBATION AGENT: The community supervision?

25 THE COURT: Revoke the year. Give him credit for it.

1 THE PROBATION AGENT: Civil judgments for money?
2 THE COURT: Yes.
3 THE PROBATION AGENT: Thank you, sir.
4 MR. MEETZE: Thank you, Your Honor.
5 MR. TUCKER: Thank you, Judge.
6 (WHEREUPON, the proceedings ended at 11:10 a.m.)
7
8 --- END REQUESTED TRANSCRIPT ---
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STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF FLORENCE)

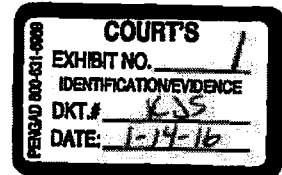
State of South Carolina)

AFFIDAVIT OF DEFENDANT FOR
GUILTY PLEA

-vs-)

Orlando Paul)

Defendant)



The Defendant states to the Court that the Defendant wants to plead guilty to the following charge(s):

2 counts of Attempted Murder and 1 count
of armed Robbery; Arson 3rd Degree

In connection with the plea, I certify that the answers to the following questions are true:

BACKGROUND OF DEFENDANT

- 1) How old are you? 37
- 2) How far did you go in school? 2 years of College
- 3) (a) Can you read and write the English language? ☒ YES ☐ NO
- (b) Are you able to read and understand this form? ☒ YES ☐ NO
- (c) If not, who is explaining it to you and filling out your answers?

Name of person: _____

- 4) What kind of work do you do? Construction
- 5) Have you ever been treated for abuse of alcohol or drugs or for mental illness?
☒ YES ☐ NO

If so, when? 2004 to the pr

For How long? to the present

Did you successfully complete the program? ☐ YES ☐ NO

- 6) Have you taken any medication drugs or alcohol in the last 24 hours?
☒ YES ☐ NO

If yes, What? Olapazine → Trazadone - to help relax

How much? as prescribed

When? 1/13/16 in the evening

Does this affect your ability to know and understand what you are doing here today? YES ✓ NO

- 7) Are you today under the influence of any medications, drugs or alcohol?
 YES ✓ NO
- 8) Are you today aware of any physical, emotional or nervous problem that might keep you from understanding what you are doing?
 YES ✓ NO
- 9) Have you ever been ordered by a Judge to submit to a mental evaluation to determine your competency to stand trial?
✓ YES NO

WAIVER OF CONSTITUTIONAL RIGHTS

- 1) Do you understand that you have a right to remain silent, that is your rights against self incrimination? You cannot be compelled or forced to testify or give evidence against yourself. Do you understand this right?

✓ YES NO

Do you wish to give up this right and plead guilty?

✓ YES NO

- 2) Do you understand that you have right to a jury trial; you have a right to have a jury decide whether or not you are guilty beyond a reasonable doubt? They would base their decision upon evidence which the state presents and on any evidence you might wish to introduce. In a trial, you would be presumed innocent, and the state would have to produce evidence that would convince all 12 members of the jury that you were guilty beyond a reasonable doubt. Do you understand this right?

✓ YES NO

Do you wish to give up your right to a jury trial and plead guilty?

✓ YES NO

- 3) Do you understand that you have the right to confront and be confronted by the witnesses against you, that is, the right to see, hear and cross examine any witness that may be called against you during the trial and the right to subpoena and call witnesses in your own behalf? Do you understand these rights?

✓ YES NO

Do you wish to give up these rights and plead guilty? ✓ YES NO

- 4) If your case has not been before the grand jury, you have the right to have the case presented to the grand jury. After hearing evidence, 12 of the 18 people on the grand jury would have to agree that you were probably guilty before the charge(s) against you could be reported out as a True Bill ready for trial. A grand jury might return a No Bill, which would mean that the charge(s) would be dismissed. Do you understand this right?

 YES NO

N/A

Do you wish to give up your right to have the grand jury examine your case?

 YES NO

- 5) Do you understand that when you plead guilty you give up these constitutional rights?

✓ YES NO

Is that what you want to do? ✓ YES NO

Do you understand that you will not get a jury trial if you plead guilty?

✓ YES NO

NATURE OF THE CHARGE(S) AND CONSEQUENCES OF PLEADING GUILTY

- 1) Has your attorney discussed with you the charge(s) and possible punishment for the charge(s)?

✓ YES NO

- 2) What acts did you do which causes you to think that you are guilty of the charge(s) to which you now want to plead guilty?

shot 2 individuals then stole their vehicle and later burned the vehicle.

- 3) Are you pleading guilty for any reason other than the fact that you are guilty?

 YES ✓ NO

If so, what is the other reason? _____

- 4) As you understand, the maximum possible punishment for this charge is: For purposes of this plea the armed robbery carries 30 years, the attempted murders each carry 30 years and the arson 3rd Degree carries 15 years.

- N/A 5) If an offense with graduated penalties: Do you understand that if you plead guilty to this offense and you are convicted at a later time of the same crime, the punishment will be higher the next time?

 YES NO

- 6) Do you have any questions about the nature of the charge(s) against you and the possible punishment?

 YES ✓ NO

If so, please write your question(s) here: _____

- 7) Do you understand that when you plead guilty you admit the truth of the charge(s) against you?

✓ YES NO

- 8) You may have defenses to the charge(s) against you. The Judge does not know whether you do or not. Do you understand that if you plead guilty you will waive or give up any defense to the charge(s)?
☒ YES ☐ NO
- 9) You may have given an incriminating statement in this case. Do you understand that if you plead guilty you waive or give up the right to contest or challenge whether such a statement was freely and voluntarily given in accordance with your constitutional rights?
☒ YES ☐ NO
- 10) Understanding the nature of the charge(s) against you and the consequences of a guilty plea, do you still wish to plead guilty?
☒ YES ☐ NO

TWO AND THREE STRIKES RULE AND NO PAROLE OFFENSES

- 1) Do you understand that the charge(s) you are pleading to is/are considered a serious/most serious offenses under South Carolina's laws?
☒ YES ☐ NO
- 2) Do you understand that that means they are considered strikes in South Carolina's two and three strikes laws?
☒ YES ☐ NO
- 3) Do you understand that under the two strikes law, if you were to be convicted of two most serious offenses in your lifetime then you would face a mandatory sentence of life in prison without parole?
☒ YES ☐ NO
- 4) Do you understand that under the three strikes law that if you were convicted of three serious offenses or a combination of three serious and most serious offenses, that you would then face a mandatory sentence of life in prison without parole?
☒ YES ☐ NO
- 5) Do you understand that the charge(s) you are pleading guilty to is/are considered no parole offense(s) under South Carolina law?
☒ YES ☐ NO
- 6) Do you understand that means that any sentence you receive in this case you would have to serve at least 85% of that sentence before you would be eligible for release and that you may have to do everyday of the sentence day for day?
☒ YES ☐ NO
- W/A 8) Do you understand that if you are pleading guilty to murder, then any sentence you get will have to be done day for day. In other words if you receive a thirty

(30) year sentence then you will be required to do all thirty years before you can be released.

_____ YES _____ NO

- 7) Do you understand that upon your release from that sentence you would be required to serve a two year period under community supervision and if you violated the conditions of that program you could have that supervision revoked and be required to serve up to one year in prison as a result?

☒ YES _____ NO

- 8) Do you understand the charge(s) you are pleading guilty to are also considered violent offenses under South Carolina law?

☒ YES _____ NO

- 9) Do you understand that the violent distinction affects parole eligibility?

☒ YES _____ NO

- 10) Do you understand that a second conviction for a violent offense would render you ineligible for parole?

☒ YES _____ NO

- 11) Understanding all of that, do you still wish to plead guilty?

☒ YES _____ NO

PLEA NEGOTIATIONS

- 1) Has any plea agreement been made by you with the Solicitor's Office?

☒ YES _____ NO

If so, exactly what do you understand the agreement to be? Negotiated 27

year sentence

- W/A 2) Do you understand that the recommendation of the attorneys is not binding on the court and that the Judge could still sentence you up to the maximum if he/she felt it appropriate?

_____ YES _____ NO

- 3) Do you still wish to plead guilty? ☒ YES _____ NO

VOLUNTARINESS OF PLEA

- 1) Has anyone promised you anything or held out any hope of reward to get you to plead guilty?

_____ YES ☒ NO

If yes, explain: _____

- 2) Has anyone threatened you or used force to get you to plead guilty?
 _____ YES ☒ NO
- 3) Has anyone used any pressure or intimidation to cause you to plead guilty?
 _____ YES ☒ NO
- 4) Have you had enough time to make up your mind as to whether or not you want to plead guilty? ☒ YES _____ NO
- 5) Are you pleading guilty of your own free will and accord?
 ☒ YES _____ NO

SATISFACTION WITH ATTORNEY

- 1) Has your attorney reviewed this form with you and answered any questions you have about it? ☒ YES _____ NO
- 2) Are you satisfied with the manner in which your attorney has advised and represented you? ☒ YES _____ NO
- 3) Have you talked with your attorney as often and for as long as you feel necessary for him/her to properly represent you?
 ☒ YES _____ NO
- 4) Do you need more time to talk with your attorney?
 _____ YES ☒ NO
- 5) Have you understood your talks with your attorney?
 ☒ YES _____ NO
- 6) Has your attorney done everything for you that you feel he/she could have done or should have done? ☒ YES _____ NO
- 7) Has your attorney done anything in this case that you feel he/she should not have done?
 _____ YES ☒ NO

If yes, explain: _____

- 8) Are you completely satisfied with your attorneys services?
 ☒ YES _____ NO

9) Do you have any complaints you want to make about your attorney, the solicitor or any of the police officers? ☐ YES ☒ NO

10) Do you understand that you have a right to appeal your guilty plea and the sentence of the court and you must do so within 10 days of the sentence?

☒ YES ☐ NO

CONCLUDING QUESTIONS

1) Do you understand all of these questions?

☒ YES ☐ NO

If not, which ones do you not understand? _____

2) Do you now want to plead guilty?

☒ YES ☐ NO

SIGNED BY ME IN THE PRESENCE OF MY ATTORNEY, this 14th

Day of January, 2016.

Mr. [Signature]
DEFENDANT

CERTIFICATE OF COUNSEL

- 1) Print your name and telephone number. Vick Meetze
843-665-3055
- 2) I represent the Defendant in this case.
- 3) I have read and fully explained to the Defendant the allegations contained in the indictment(s) in this case.
- 4) To the best of my knowledge and belief the statements, representations and declarations made by the Defendant in the foregoing petition are in all respects accurate and true.
- 5) I have explained to the Defendant the charge(s) contained in the indictment(s), the possible punishment and his/her constitutional rights including his/her right to a jury trial.
- 6) I have explained to the Defendant the right to have this case submitted to the grand jury for its consideration.
- 7) In my opinion, the Defendant understands the charge, the punishment and the constitutional rights in this case.
- 8) The defendant has indicated to me that he/she wishes to plead guilty.
- 9) The plea of guilty offered by the Defendant to count(s) OF AR, AM and
AR 3rd degree accords with my understanding of the facts that the Defendant has related to me, is consistent with my advice to the Defendant, and, in my opinion, is voluntarily and understandingly made.

SIGNERD BY ME IN PRESENCE of the Defendant and after full discussion of the contents of this certificate with the Defendant, this 14th day of January, 2016.

Vick Meetze
ATTORNEY FOR THE DEFENDANT

FORM 5

20 17 CP 21 112

STATE OF SOUTH CAROLINA)

County of Florence)Mr. Orlando Paul #231996)

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

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS)

APPLICATION FOR)

POST-CONVICTION RELIEF)

2017 JAN 17 PM 4:04
CLERK OF COURT
FLORENCE COUNTY, SC

FILED

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Florence County Detention Center
2. Name and location of Court which imposed sentence Court of General Sessions,
City of Florence, Florence County
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2015-GS-21-00272
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Sentence date: 01/14/16
- (b) Sentence: 28 years in State Dept. of Corrections
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Eve asked my public defender to file an appeal; he said he would but Eve found out later that he did not.

- (b) Eye am a mentally handicapped individual and was under the influence of strong medicines
 (c) My personal property was not transferred with me from the Cty. Jail to SCDL so eye has no info on how or the relative info that eye needed.
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of counsel / failure of investigators to perform investigation and follow several leads eye provided.
 (b) Failure of trial Judge to ensure that eye was not under influence of meds and thus plea was voluntary
 (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Counsel did not alert of plea offers; Contact Key witnesses; did not follow leads defined by law;
 (b) did not ask whether under control of medications which altered my thinking, reasoning and/or decision-making
 (c) State failed burden of Proof
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
 ii. _____
 iii. _____
 iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

NO

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

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____

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

- (a) Property lost by Detention Ctr. and Vital info including transcript lost
- (b) mental health issues which deprived me of reasoning faculties to present case
- (c) under influence of heavy medications

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

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

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

- (a) the name and address of each attorney who represented you:
 - i. Vick Metz, Public Defender's office; 180 N. ZRByst.
Florence, S.C. 29501
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. plea, Vick Metz
sentencing, Vick Metz
 - ii. appeal; Vick Metz
 - iii. _____

Revised 3/2003

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

I wish a sentence reduction for the amount of fifteen (15) years subtracted
from my current sentence, as well as any other remedies and reliefs
accorded to me by law.

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

NO

STATE OF SOUTH CAROLINA)
 County of Florence)

VERIFICATION

I, Mr. Orlando Paul, 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 at this time for vacating, setting
 aside or correcting the convictions and sentence attacked in this application; and that the matters
 and allegations therein set forth are true and correct.

Mr. Orlando Paul

SWORN to and subscribed before me this 12
 day of Jan. 2017

Debra Eastman (L.S.)
 Notary Public

My Commission Expires: 3/3/2024

FILED
 2017 JAN 17 PM 4:05
 Debra Eastman
 CCJP & GS
 FLORENCE COUNTY, SC

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

I, Mr. Olando Paul #231996, hereby apply for leave to proceed in this action without prepayment of fees or costs or security thereof. In support of my application I declare under penalty of perjury that the following facts are true:

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

Mr. Olando Paul #231996
Applicant

Mr. Olando Paul #231996
Lee Corr., Inst.,
990 Wisacky Highway
Bishopville, SC 29010-1775

SWORN or affirmed to and subscribed before me this

12 day of Jan. 2017

Debra Eastbridge
Notary Public

My Commission Expires: 3/3/2020

FILED
 2017 JAN 17 PM 4:05
 J HARA
 CLERK & GS
 FLORENCE COUNTY, SC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	
	)	
Orlando Paul,	)	Case No.: 2017-CP-21-0112
S.C.D.C. No. 231996,	)	
	)	
Applicant,	)	
	)	RETURN AND MOTION TO DISMISS
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

In response to the application for post-conviction relief filed by Orlando Paul (Applicant) on January 17, 2017, Respondent would show this Court:

I.

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. Applicant was indicted at the March 2015 term of the Florence County Grand Jury for two counts of attempted murder, possession of a firearm by a convicted felon, and armed robbery (2015-GS-21-0272). William Vickery Meetze, Esquire, represented Applicant. On January 14, 2016, Applicant pleaded guilty to two counts of attempted murder and armed robbery.¹ Consistent with terms negotiated between Applicant and the State, the Honorable D. Craig Brown sentenced Applicant to imprisonment for concurrent terms of 28 years. Applicant did not appeal his plea or sentence.

¹ Applicant was also indicted at the December 2015 term for arson – third degree (2015-GS-21-0465), and he pleaded guilty to that charge on the same day. Judge Brown sentenced him to 15 years to be run concurrently to his sentence for the charges on indictment 2015-GS-21-0272. The charge for possession of weapon was *nolle prosequed*. Applicant has not challenged his guilty plea with respect to the arson conviction in this application.

II.

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

1. "Ineffective assistance of counsel"
 - a. "failure of investigators to perform investigation and follow several leads [I] provided;"
 - b. "Counsel did not: alert of plea offers; contact key witnesses; did not follow leads provided; pursue any reasonable or logical actions relegated to him as defined by law; did not ask whether under control of medications which altered my thinking, reasoning, and/or decision making;"
2. "Failure of trial judge to ensure that [I] was not under influence of meds and that plea was voluntary"
3. "State failed burden of proof"

Applicant requests relief as follows:

- Sentence reduction in the amount of fifteen years subtracted from current sentence, as well as any other remedies and reliefs accorded by law.

Attached to and incorporated herein are the Florence County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, and the records of this current PCR action.

III.

The application should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160.

Specifically, the act requires as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision on appeal, whichever is later.

S.C. Code Ann. § 17-27-45(A).

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. § 17-27-70(c) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.”

The means of counting days with respect to the statute of limitations are proscribed by the South Carolina Rules of Civil Procedure. In computing the statute of limitations:

[. . .] the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday.

Rule 6(a), SCRPC. “Mailing does not constitute filing. When a statute requires the filing of a paper or document, it is filed when delivered to and received by the proper officer.” Pelzer v. State, 378 S.C. 516, 520, 662 S.E.2d 618, 620 (Ct. App. 2008) (citations omitted).

Applicant pled guilty on Thursday, January 14, 2016, and did not appeal his plea or sentence. Therefore, Applicant had until Monday, January 16, 2016, to file an application for post-conviction relief. The current application was not filed until Tuesday, January 17, 2016—one day after the one-year statutory filing period expired. Therefore, the application should be summarily dismissed as barred by the statute of limitations.

IV.

Respondent denies each allegation not expressly admitted, qualified, or explained.

V.

WHEREFORE, Respondent moves to summarily dismiss the application because it is untimely.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

LINDSEY A. MCCALLISTER
Assistant Attorney General

By:



ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

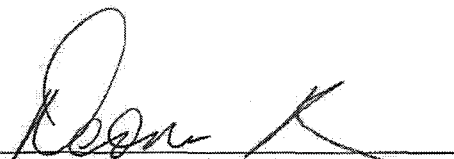
4/24, 2017

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE	)	
	)	2017-CP-21-0112
	)	
ORLANDO PAUL, #231996	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent,	)	
_____	)	

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

Mr. Orlando Paul, #231996
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010

DATED this the 26th day of April, 2017.



 Deonna Rogers, Legal Assistant
 For Respondent

State of South Carolina	)	Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2017-CP-21-00112
	)	
Orlando William Paul,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
The State of South Carolina,	)	
	)	
Defendant.	)	
	)	

March 4, 2019
Florence, South Carolina

B E F O R E:

The Honorable William H. Seals, Jr., Judge

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

Jonathan Waller, Esquire
Attorney for the Applicant Plaintiff

Lindsey McCallister, Esquire
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COURT REPORTER LEGEND

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1 MARCH 4, 2019

2 (WHEREUPON, the proceedings began at 9:55 a.m.)

3 THE COURT: All right. Yes, ma'am?

4 MS. MCCALLISTER: May it please the Court, Your Honor.

5 THE COURT: Sure.

6 MS. MCCALLISTER: Orlando Paul versus the State of South
7 Carolina, 2017-CP-21-0112. Your Honor, Mr. Paul was indicted
8 at the March 2015 term of the Florence County Grand Jury for
9 two counts of attempted murder, possession of a firearm by a
10 convicted felon, and armed robbery. He was represented on
11 those charges by Vick Meetze.

12 On January 14th, 2016, he pleaded guilty to two counts of
13 attempted murder and armed robbery. Consistent with terms
14 negotiated between Mr. Paul and the State, Judge Brown
15 sentenced him to a term of imprisonment -- or concurrent
16 terms of imprisonment for 28 years. He did not appeal his
17 plea or sentence.

18 He timely filed this application for post-conviction
19 relief on January 17th, 2017. Your Honor, at one point, the
20 State had filed a motion to dismiss. We had a hearing on
21 that issue and were able to figure out that this motion
22 actually was timely filed. It was close to the deadline, but
23 it was timely.

24 Mr. Waller has been appointed for Mr. Paul. Both Mr.
25 Paul and Mr. Waller are present here today.

1 Your Honor, the State filed an amended return and
2 partial motion to dismiss. I believe Mr. Paul makes some
3 allegations in his application regarding the State's burden
4 of proof and some failures of the trial judge, and we would
5 move to dismiss those as being direct appeal issues that are
6 not proper for PCR.

7 He does have two other allegations of ineffective
8 assistance of counsel for failure to perform an investigation
9 and follow leads and then failure of counsel to kind of
10 discuss various issues in the case, plea offers, contact of
11 witnesses, and following up about whether he was on
12 medications.

13 So we believe those two issues are proper to go forward
14 on today, but we would ask to dismiss the issues regarding
15 the State's burden of proof.

16 THE COURT: All right. Mr. Waller?

17 MR. WALLER: Judge, we have no intention of pursuing the
18 burden of proof issue. It was a guilty plea. Obviously, he
19 waived the right to challenge the evidence.

20 I believe the issue regarding the medication we're going
21 to get into in the ineffective assistance of counsel claims
22 anyway. So we have no issue there.

23 Judge, the relief he had -- he had originally requested
24 was a sentence reduction. I've spoken with Mr. Paul and he
25 understands that's not an option. What we're asking for is,

1 you know, the standard vacating the conviction and give him
2 the opportunity to face the charges again.

3 Judge, just, I guess, to add a little bit to what Ms.
4 McCallister said about the State's motion to dismiss, I
5 believe this actually ran over a weekend and there was a
6 holiday on that Monday and so that's -- that's kind of where
7 the timing came into play. So I think it actually got filed
8 maybe on or near, a day later or something like that.

9 THE COURT: All right.

10 MR. WALLER: Your Honor, I think Ms. McCallister did a
11 very accurate job of kind of giving the procedural background
12 and, if the Court is ready, I would call Orlando Paul.

13 THE COURT: All right. I'll grant the State's motion,
14 for the record.

15 MR. WALLER: Thank you, Your Honor.

16 MS. MCCALLISTER: Thank you, Your Honor.

17 THE COURT: And, Mr. Waller, does Mr. Paul understand
18 that he could possibly be worse off if I grant his post-
19 conviction relief?

20 MR. WALLER: He does, Your Honor.

21 THE COURT: Okay.

22 MR. WALLER: We've discussed that. Your Honor, he was
23 actually served with notice of the intent to seek life
24 without parole.

25 THE COURT: Uh-huh.

ORLANDO PAUL - DIRECT BY MR. WALLER

1 MR. WALLER: He is well aware of that. We've discussed
2 it several times previously and again here this morning. I
3 believe he understands that and still has intention to go
4 forward.

5 THE COURT: All right. If that's the case, I'm ready
6 when you are.

7 MR. WALLER: Yes, sir. Thank you, Your Honor.

8 THE CLERK: Put your left hand on the Bible and raise
9 your right hand as best you can. Do you swear or affirm that
10 the testimony you give will be the truth, the whole truth,
11 and nothing but the truth, so help you God?

12 THE APPLICANT: So help me God, yes, I do.

13 MR. WALLER: Thank you, Your Honor. May it please the
14 Court.

15 THE COURT: Yes, sir.

16 ORLANDO PAUL, being first duly
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. WALLER:

20 Q: Good morning, Mr. Paul. How are you this morning?

21 A: Good morning.

22 Q: All right. Mr. Paul, I want to kind of take you back to
23 when you were first arrested on these charges. Do you recall
24 that?

25 A: Yes, sir, I do.

ORLANDO PAUL - DIRECT BY MR. WALLER

1 Q: Okay. When you were arrested, did you -- were you taken
2 straight to the detention center or did you go to the
3 hospital first?

4 A: No. I went to McLeod Hospital.

5 Q: Okay. Why did you go to McLeod?

6 A: Because I had attempted suicide because I thought I had
7 killed someone that I knew. So I slit my wrists and I cut my
8 throat.

9 Q: Okay. So you had some medical issues they had to attend
10 to before you are able to be transferred to the detention
11 center?

12 A: Yes, sir.

13 Q: All right. When you were arrested, were you arrested on
14 -- what charges were you arrested on from this incident
15 initially?

16 A: If I recall correctly, it was attempted murder, two
17 counts of attempted murder, arson third degree, and a felon
18 in possession of a weapon, and armed robbery.

19 Q: Okay. And you are not challenging the arson charge; is
20 that right?

21 A: No, sir, I'm not.

22 Q: Okay. I just want to make sure we're clear on that.
23 After you were -- were arrested on these charges, after you
24 got to the detention center, who was your attorney?

25 A: Mr. Vick Meetze.

ORLANDO PAUL - DIRECT BY MR. WALLER

1 Q: Okay. Was he your attorney the entire time through
2 these charges?

3 A: Yes, he was.

4 Q: All right. How much time -- how much time from when you
5 were arrested until when you pled guilty? How much credit
6 did you get?

7 A: I think, like, 15 months.

8 Q: Okay. 400-and-something days? Does that sound right?

9 A: Yeah.

10 Q: Okay. When was the first time you think you met with
11 Mr. Meetze?

12 A: To be honest with you, I'm not sure. Those first few
13 months I was not really in my right frame of mind. I was
14 heavily medicated and, as far as I understand, we -- I was
15 having a hard time communicating. I'll put it like that. I
16 wasn't communicating with basically anyone.

17 Q: Okay. You had -- you had some stuff going on then that
18 harmed your ability to communicate; is that right?

19 A: Yeah. Yes.

20 Q: Okay. Did those issues kind of resolve themselves at
21 some point?

22 A: Yeah. As time went by, actually, I stopped taking a lot
23 of the meds at times because I needed to get a clear head.
24 And every time I stopped taking the meds, they'd send me to
25 lock-up and put me on suicide watch.

ORLANDO PAUL - DIRECT BY MR. WALLER

1 Q: Okay.

2 A: But those were the only times wherein I could actually
3 think clearly without being, like, cloudy headed.

4 Q: Okay. How did the medication affect you? You said
5 cloudy headed. Was that one of the symptoms?

6 A: Yeah. I couldn't -- I couldn't -- my thoughts -- I
7 couldn't, like, complete a train of thought.

8 Q: Okay.

9 A: It was -- it was very -- it was weird.

10 Q: Okay. Did you ever receive any diagnosis or anything
11 like that or had you already had a diagnosis that they were
12 treating you for?

13 A: While I was at the County, the entire time I was seeing
14 a psychologist or psychiatrist every week or every two weeks
15 or something like that. I don't know exactly what he
16 diagnosed me with.

17 Q: Okay.

18 A: But every time I stopped taking my medication, they
19 would put me on lock-up.

20 Q: Okay. Did you and Mr. Meetze have a chance to talk
21 about your mental health issues and the medications you were
22 taking?

23 A: I know they had -- they ordered for me to get a
24 psychiatric treatment or something like that or some type of
25 evaluation. I don't really recall us ever talking about the

ORLANDO PAUL - DIRECT BY MR. WALLER

1 effects the meds had on me.

2 Q: Okay. All right. I'll kind of -- kind of take you back
3 a little bit. This was a -- this was a dispute that happened
4 following the purchase of a phone at Best Buy; is that right?

5 A: Yes.

6 Q: The incident took place shortly after y'all left the
7 Best Buy?

8 A: Right.

9 Q: You and a male and a female; is that right?

10 A: Right.

11 Q: Okay. You've known these people for some time before
12 this?

13 A: Yes.

14 Q: Okay. When you and Mr. Meetze met, what did -- what did
15 y'all talk about when you were able to -- to communicate
16 better?

17 A: He asked me what happened and I explained to him that
18 they actually twisted the story, that I was the one actually
19 being robbed, that I defended myself. I got -- I got control
20 of the gun and I shot them because I thought my life was in
21 danger. He told me that no one would believe that because I
22 was already a convicted felon and that I needed -- I needed
23 to find a better story basically. Well, that's what he said.
24 I need to think of a better story.

25 Q: Okay. Did you -- did you give him any information that

ORLANDO PAUL - DIRECT BY MR. WALLER

1 you wanted him to investigate?

2 A: Yes.

3 Q: Okay.

4 A: I gave him the names of three people that I spoke to

5 immediately after the incident happened because I was

6 panicking. These three people are -- they're like my

7 foundation, my rock, the people that I speak to when -- when

8 I'm really needing someone to talk to.

9 And he -- he was saying something about that they might

10 not be credible witnesses or something like that, but like I

11 told him, if -- if I commit a crime and I tell someone, hey,

12 I did this, they could use that person's testimony against

13 me. So if I don't commit a crime and I say, hey, look, this

14 is what happened to me, why couldn't they use that same

15 person's testimony and say, hey, he told me immediately after

16 the situation what happened. It's the same situation.

17 Q: Okay. I want to go over a couple of the pieces of

18 evidence the State -- the State had on you. Who actually

19 called 9-1-1 in this case?

20 A: I did.

21 Q: Okay. Did you ever have a chance to hear the 9-1-1 call

22 or see the report from that?

23 A: No, I didn't.

24 Q: Okay. Do you know if Mr. Meetze had either the call or

25 the report?

ORLANDO PAUL - DIRECT BY MR. WALLER

1 A: He told me he had not.

2 Q: That he had not?

3 A: No. He said -- I asked him had he heard it and did he

4 have a transcript. And the Thursday before we went to trial,

5 he said he did not have it.

6 Q: Okay. Okay. You gave a statement to law enforcement in

7 this case as well; is that right?

8 A: Yes, sir.

9 Q: Okay. Did you ever have a chance to see that statement?

10 A: No, sir, I did not.

11 Q: Okay. Do you remember how it was given? Was it just

12 you talking to somebody or was it audio and video recorded?

13 A: It was --

14 Q: Do you recall?

15 A: It was voice recorded.

16 Q: Okay.

17 A: It was two investigators and I spoke with them. I told

18 them everything.

19 Q: Okay. Where? Where did you speak with them?

20 A: The detention center.

21 Q: Okay. So just after you got out of the hospital, you

22 were in -- in the detention center. They just brought you

23 over, you know, right across the hall pretty much?

24 A: Yeah.

25 Q: Is that right?

ORLANDO PAUL - DIRECT BY MR. WALLER

1 A: Yeah.

2 Q: Okay. Did you and Mr. Meetze discuss your statement?

3 A: That I made to the --

4 Q: Yes, sir.

5 A: -- the investigators? No, we didn't.

6 Q: Okay. Were you -- when you gave that statement, how
7 long had you been out of the hospital?

8 A: It couldn't have been more than two days.

9 Q: All right.

10 A: I remember they came pretty much immediately after.

11 Q: Okay. You mentioned that you had -- for a while you had
12 some trouble communicating with anybody, including Mr.
13 Meetze?

14 A: Right.

15 Q: At the time you gave that statement, were those issues
16 communicating still going on?

17 A: Yeah. I was actually crying a lot. I was -- listen, I
18 was really distraught about this entire situation. The
19 female that was involved, Tasha, she had actually lived with
20 me. She was one of my friends and that hurt me. I thought
21 they were dead. I didn't even know they were still alive
22 until the investigators came. That's when I found out that
23 they were alive.

24 But, like I said, I was telling the truth. It may not
25 seem cut and dried and it may not be as neat as people would

ORLANDO PAUL - DIRECT BY MR. WALLER

1 want it to be, but the truth is the truth. I can't make up a
2 story like this.

3 Q: Okay. All right. Did you and -- so y'all never
4 discussed you being medicated giving a statement?

5 A: Excuse me? Say that again.

6 Q: You never -- you and Mr. Meetze never discussed the fact
7 that you were medicated while giving a statement?

8 A: No.

9 Q: Okay. Do you know if Mr. Meetze had a copy of your
10 statement?

11 A: He told me he did not. Actually, I gave that statement
12 and I wrote a suicide note.

13 Q: Okay.

14 A: He didn't have a copy of the suicide note until the day
15 of the trial.

16 Q: Okay. The day of the trial, did he have a copy of the
17 statement?

18 A: No, he did not.

19 Q: Okay. That leads me right to my next question. Did
20 y'all ever talk about going to trial?

21 A: Yes, we did.

22 Q: Okay. What did y'all talk about?

23 A: He was telling me basically what the procedure would be,
24 but he told me a lot of technical things. This is what --
25 how much time you can get, this is the situation, here is --

ORLANDO PAUL - DIRECT BY MR. WALLER

1 it -- I felt like Mr. Meetze wanted me to plead guilty to
2 some type of agreement or something.

3 Q: Let me break down some of the -- some of the -- and ask
4 you some of it this way. You said y'all talked about some
5 procedural stuff. Did y'all talk about how, you know, the
6 order of trial would go?

7 A: Yeah. Like, as far as who would testify and the
8 evidence they would present, yeah.

9 Q: Okay. Y'all did talk about that stuff. Did y'all talk
10 about any defenses that you might have?

11 A: He told me he didn't -- he told -- he told me they
12 wouldn't believe my story.

13 Q: Okay. Your story, the one that you initially told him
14 that you were actually the one being robbed and then were
15 able to get control of the gun; is that right?

16 A: Right.

17 Q: Okay. Did y'all ever discuss the defense of self-
18 defense?

19 A: No.

20 Q: Okay. Did you ask him about it?

21 A: I didn't.

22 Q: Did you know to ask him about it?

23 A: It never really crossed my -- I mean from me telling the
24 story, I would think that he would, you know, get the gist of
25 what I'm saying, but I never actually said anything about

ORLANDO PAUL - DIRECT BY MR. WALLER

1 self-defense.

2 Q: You never used the word self-defense?

3 A: No, I did not.

4 Q: You told Mr. Meetze your story and relied on him being
5 your lawyer; is that right?

6 A: Yes.

7 Q: Okay. At what point were you served with notice of
8 intent to seek life without parole?

9 A: Maybe three weeks before he came and told me that we
10 were going to trial the next day.

11 Q: Okay. Did that change -- when you were served with
12 that, did that change your intentions of what you were going
13 to do?

14 A: Yeah. From -- from -- from the very first time I met
15 Mr. Meetze, I told him that I wanted a trial --

16 Q: Okay.

17 A: -- because I did not do what I was accused of. And when
18 they served me with the life without parole papers, he was
19 not in the courtroom and I was, like, shocked. I didn't know
20 what was going on because I didn't know that this was going
21 to happen. The only thing that he had told me that the State
22 wanted was for me to plead to 25 years, and I wasn't going to
23 plead to 25 years. I wanted to take it to trial.

24 Q: Okay. All right. I guess for lack of a better way to
25 ask this, what changed? Why did you end up pleading guilty?

ORLANDO PAUL - DIRECT BY MR. WALLER

1 A: It was the -- the whole totality of the situation. I
2 asked Mr. Meetze to contact my witnesses. He did not do
3 that.

4 I asked Mr. Meetze to get an inventory of the so-called
5 victims' pockets when they went to the hospital. He did not
6 do that.

7 I asked for a copy of my suicide note. He did not do
8 that.

9 I asked for a copy of the statement that I made to the
10 investigators. He did not do that.

11 I asked him to go to Pee Dee Mental Health and get my
12 Pee Dee Mental Health record because a week before this
13 happened, I had signed myself into Pee Dee Mental Health. He
14 did not do that.

15 I did not feel safe going -- because he came on Thursday
16 and told me that I either plead Friday or we go to trial
17 Monday. He also said that they had already picked a jury and
18 I was asking him all these things. Did you do this? Did you
19 do that? And he hadn't and I can't see myself doing life. I
20 couldn't. So I -- I just pled.

21 Q: So you didn't think Mr. Meetze was ready to go to trial?

22 A: No.

23 Q: Is that right?

24 A: Not at all.

25 Q: Okay. You mentioned you asked him to get hospital

ORLANDO PAUL - DIRECT BY MR. WALLER

1 inventory?

2 A: Yes.

3 Q: What was your reason for asking for that?

4 A: Because they were saying that I robbed them. If I

5 robbed them, that means they would have no money on them.

6 They would have no valuables, no anything if I robbed them.

7 If I had a gun and I drew a gun on them, that means I was in

8 control of the situation, that I took all their belongings.

9 That couldn't have happened because I didn't do it.

10 Q: Okay. All right. You discussed a second ago or you

11 mentioned that Mr. Meetze said he had already picked a jury

12 on the Thursday before your trial was supposed to start.

13 Were you -- were you present for a jury selection?

14 A: No, I was not.

15 Q: Okay. Did he tell you when he would have picked a jury?

16 A: No, he didn't.

17 Q: Okay. Mr. Paul, I believe I've asked you all the

18 questions that I have for you. Is there anything that I have

19 forgotten or neglected to ask you that you think it's

20 important that Judge Seals be aware of Mr. Meetze's

21 representation of you?

22 A: I just did not feel -- I feel like he didn't do

23 everything in his power to -- to be my counsel because maybe

24 he didn't believe that I was innocent of the -- of the crime.

25 You know, I understand that your job is to be objective and

ORLANDO PAUL - DIRECT BY MR. WALLER

1 to be, you know, professional and stuff, but sometimes I mean
2 people are human.

3 And I don't really, you know, fault him for it, but it
4 was a lot of things that I asked him to do, especially, like,
5 when he didn't contact my witnesses, when he didn't try to
6 get any evidence, and then Thursday you just come out the
7 blue and you say you either take this plea tomorrow or we're
8 going to trial Monday and you don't have anything that I've
9 asked you to do to defend myself because I want to go to
10 trial, I really want to go to trial and defend myself. Like
11 I said, I couldn't -- I couldn't see myself doing life.

12 Q: Okay. If Mr. Meetze had done the things that you had
13 asked him to do and prepared for trial, would you have still
14 pled guilty or would you have gone to trial?

15 A: I would have went to trial, without a doubt.

16 MR. WALLER: Thank you, Mr. Paul. Please answer any
17 questions Ms. McCallister has. Okay. Thank you.

18 THE COURT: All right. Mr. McCallister?

19 MS. MCCALLISTER: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MS. MCCALLISTER:

22 Q: Good morning, Mr. Paul.

23 A: Good morning, ma'am.

24 Q: You testified just a minute ago that -- that you did
25 have an evaluation done; correct?

ORLANDO PAUL - CROSS BY MS. MCCALLISTER

- 1 A: Yes, ma'am.
- 2 Q: An evaluation for your trial and plea?
- 3 A: Yes, ma'am.
- 4 Q: Okay. So they brought you to Columbia to Mental Health;
- 5 correct?
- 6 A: Yes, ma'am.
- 7 Q: Okay. And you met with someone there who did an
- 8 evaluation and a report; correct?
- 9 A: Yes, ma'am.
- 10 Q: Did you talk about that report with Mr. Meetze?
- 11 A: He told me that it would not be useful to my trial. I
- 12 asked him what the diagnosis was. He said it wouldn't -- it
- 13 wouldn't help us anyway, but I wanted to know what it said.
- 14 Q: Okay. And he just told you that it wouldn't help you?
- 15 A: That's it.
- 16 Q: Okay. Do you recall at the plea the attorneys putting
- 17 on the record that the evaluation found that you were
- 18 competent and you were able to kind of have the criminal
- 19 responsibility piece?
- 20 A: I think so. Yes, ma'am.
- 21 Q: Okay. Do you recall your attorney saying that -- that
- 22 you guys were not contesting those findings in that
- 23 evaluation?
- 24 A: I -- I'll just take your word for it. I can't --
- 25 Q: Okay. If it's in the transcript, do you believe he said

ORLANDO PAUL - CROSS BY MS. MCCALLISTER

1 it?

2 A: Yeah. I mean I don't -- I don't even have a copy of the
3 transcript, ma'am.

4 Q: Okay.

5 A: I never received one.

6 Q: And do you recall that Judge Brown asked you some
7 questions on his own about your mental health and the
8 medications that you were taking?

9 A: Yes, ma'am.

10 Q: Okay. And you told him that -- you told him what
11 medications you were on; correct?

12 A: Yes, ma'am.

13 Q: And he asked you if those medications would prevent you
14 from understanding what you were doing and you told him that
15 they would not?

16 A: Before we went in the courtroom, Mr. Meetze told me to
17 not look at anyone because the victims would be in there, to
18 say yes to all the questions because we had already
19 negotiated a plea. He said they're going to try to get you
20 to -- to -- to act out. He said just say yes to the judge
21 and we'll get out of here as quick as we can. So I was just
22 following orders, but I did tell them that I was on
23 medications and the medications made me cloudy headed, like.

24 Q: Okay. Well, actually, I think what you told the judge
25 was that the medications didn't prevent you from

ORLANDO PAUL - CROSS BY MS. MCCALLISTER

1 understanding what was happening; correct?

2 A: I may have, but, like I said, I was told by my counsel
3 to just say yes to everything. I've already negotiated a
4 plea. There's nothing I can do to change the outcome. And I
5 went on that word, I mean.

6 Q: Okay. Do you recall also telling the judge that you
7 were satisfied with Mr. Meetze's representation of you and
8 that he had done everything you had asked him to do?

9 A: Once again, it was basically just say yes, nod your
10 head. See, you guys weren't there. The -- the victims or
11 whatever, they made a lot of fuss in the courtroom and was
12 saying things.

13 As a matter of fact, when they said something about
14 mental health, the female got back up and approached the
15 stand and told the judge, Your Honor, he's trying to plead
16 crazy. Don't believe what he's saying. Make sure he gets
17 every -- every year he's supposed to get. And the judge had
18 to bang the gavel and tell the courtroom to calm down and all
19 this stuff. And Mr. Meetze once again at that time whispered
20 in my ear just say yes to all the questions and we'll get out
21 of here as fast as we can.

22 Q: Okay. Okay. Just a couple things to clarify. You
23 testified to Mr. Waller that you were the one who called
24 9-1-1?

25 A: Yes, ma'am, I did.

ORLANDO PAUL - CROSS BY MS. MCCALLISTER

1 Q: Okay. Do you -- do you know if other people also called
2 9-1-1?

3 A: I can't answer that.

4 Q: Okay. You -- you and Mr. Meetze never talked about the
5 fact that there were other witnesses who called 9-1-1 to the
6 shooting?

7 A: No.

8 Q: Okay. Do you recall the State saying that at the plea,
9 that other witnesses had also called 9-1-1 too?

10 A: No. No, ma'am, I don't.

11 Q: And you testified about being served with life without
12 parole and you said that was about three weeks before your
13 plea; is that right?

14 A: Somewhere -- yes, ma'am.

15 Q: Okay.

16 A: Somewhere in there.

17 Q: And did you talk about that with Mr. Meetze? The notice
18 that you had gotten?

19 A: Yes, later. Like I said, when I was served that paper,
20 he was not there. He came maybe a week later and I told him,
21 listen, they signed -- they served me with this life without
22 parole paper and he -- I'm glad you said that because that's
23 when he told me that there were other plea agreements that he
24 hadn't told me about.

25 Q: Okay.

ORLANDO PAUL - CROSS BY MS. MCCALLISTER

1 A: He said something about, like, when you turned down the
2 other plea agreements and I asked him. I said, well, why
3 didn't you tell me. He said because you told me you want to
4 go to trial, which is true. I wouldn't have took any plea
5 agreements. I would have went to trial, but that's -- I
6 didn't know they were going to serve me with life without
7 parole.

8 Q: Okay. So they served you with life -- with life without
9 parole and did you talk about the charges that you had that
10 kind of allowed the State to do that on your prior charges on
11 your record?

12 A: I remember him saying something about three strikes, two
13 strikes, something like that.

14 Q: Okay. So he explained that rule to you?

15 A: Yes.

16 Q: Okay. And you did have prior robbery charges on your
17 record; correct?

18 A: Yes.

19 Q: Okay. So you got -- you got the notice, the life
20 without parole notice, and then a couple weeks later you come
21 -- or I guess a couple weeks later Mr. Meetze comes to visit
22 you at the detention center and says you can either take a
23 plea tomorrow or we're starting trial on Monday?

24 A: Yes, ma'am.

25 Q: Okay. And you said at that time you listed out all

ORLANDO PAUL - CROSS BY MS. MCCALLISTER

1 these things that you wanted him to do that he hadn't done;
2 correct?

3 A: I had already told him several times.

4 Q: Okay.

5 A: And this was the thing. He said the reason he hadn't
6 contacted my witnesses was because -- one of them he said the
7 number wasn't working or he wasn't picking up, but the thing
8 is all three of these people -- their numbers have been the
9 same for 10 -- 15 years.

10 Q: Okay. Okay. So he comes. That's Thursday. So then
11 you're in this position where you either have to take a plea
12 the next day or you're starting trial on Monday?

13 A: Yes, ma'am.

14 Q: And you decide to take the plea?

15 A: Yes, ma'am.

16 Q: Okay. So at the time that you went into the courtroom
17 to take the plea, you had talked to Mr. Meetze and you were
18 aware that he had not done these things or you thought that
19 he had not done these things to your satisfaction?

20 A: Yes, ma'am.

21 Q: Okay. And you still decided to enter the plea?

22 A: What choice did I have?

23 Q: And you -- well, you didn't tell the judge any of this
24 stuff about Mr. Meetze?

25 A: Because my counsel had informed me that the witnesses

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1 were in the courtroom, to go in here saying yes to everything
2 because we have already negotiated a plea. There's nothing I
3 can do to change the outcome.

4 I need for you to understand, ma'am, that I didn't
5 realize how volatile that courtroom was going to be. They
6 were actually making a ruckus in the courtroom.

7 Q: Okay.

8 A: And he told me not to look at anyone. And they were
9 interrupting the judge, coming up and calling me a coward and
10 all up to my -- it was very -- it was very dramatic.

11 Q: Okay.

12 A: So I -- like he said, just say yes to this and we get
13 out of here as fast as we can.

14 Q: Okay. You had -- you had -- you just talked about the
15 fact that you had previous charges; correct? And you
16 actually had just gotten out of jail a little while before
17 this occurred; correct?

18 A: Yes, ma'am.

19 Q: So you had been through the -- you had been through the
20 justice system before; is that correct?

21 A: Yes, ma'am.

22 Q: So you knew that this was your chance to come in and
23 talk to the judge about this; correct?

24 A: Yes, ma'am. Yes, ma'am.

25 MS. MCCALLISTER: I think that's all the questions I

ORLANDO PAUL - REDIRECT BY MR. WALLER

1 have, Your Honor.

2 THE COURT: All right. Redirect?

3 MR. WALLER: Just briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. WALLER:

6 Q: Mr. Paul, you pled guilty just over three years ago; is
7 that right? 2016?

8 A: Yes, sir.

9 Q: You're not disputing -- you remember what happened in
10 the courtroom, but you're not disputing -- you don't recall
11 your exact, you know, answer to a question or something like
12 that? You're not -- if something is in the transcript,
13 you're not disputing it; is that right?

14 A: No, no.

15 Q: Okay. You mentioned on cross-examination about other
16 plea offers that you hadn't been informed of. You said you
17 would've taken them. Do you recall what they were?

18 A: No.

19 Q: Did you ever -- were you ever explained what they were?

20 A: Initially, when I met Mr. Meetze, he asked me would I
21 take a plea and I was telling him no. I said I want to take
22 it to trial. He said, well, if you have to do any time, how
23 much time would you accept, and I told -- I think I told him
24 something like 10 years. I said that's the most I'll accept
25 because I did do something wrong that day. I did a lot of

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1 things wrong that day, but I didn't do what they accused me
2 of.

3 He came later and said, all right, here's a plea for 25
4 years. I said, no, I'm not taking that. When -- that
5 Thursday when he came and said we're either going to trial
6 tomorrow or either we're going to trial -- take this plea
7 tomorrow or we're going to trial Monday, he told me that the
8 State had offered two other pleas and I asked him. I said,
9 well, why didn't you tell me. He said because you had
10 already told me that you wanted to take it to trial, which is
11 true.

12 Q: Okay. So you had rejected -- you told him you wanted to
13 go to trial. You had rejected the offer for 25?

14 A: Yes.

15 Q: Okay. So it's your understanding there were two
16 additional offers made?

17 A: Yes.

18 Q: But they were --

19 A: I don't know how much time they were for.

20 Q: Okay.

21 A: Yeah. He --

22 Q: So you don't have the details?

23 A: No.

24 Q: And you don't know whether you would have taken them or
25 not?

ORLANDO PAUL - REDIRECT BY MR. WALLER

1 A: Yeah. I wouldn't.

2 Q: Okay.

3 A: I don't know.

4 Q: But you -- they weren't extended to you and you didn't
5 know about them; is that right?

6 A: That's right.

7 Q: Okay. And just to clarify one thing Ms. McCallister
8 asked you, on the Thursday that you and Mr. Meetze met prior
9 to your plea, had you already asked him to investigate
10 certain things or was that the first time you brought it up?

11 A: No. I had -- I had been asking him from the beginning.

12 Q: Okay.

13 A: From the very beginning. Like, these are the things
14 that are important to me proving my innocence.

15 Q: Okay. You're not disputing that you and Mr. Meetze
16 never met? Y'all met several times; is that right?

17 A: Right. That's correct.

18 Q: So you don't have any problem with that?

19 A: No.

20 Q: You had asked him at previous meetings to do some of
21 these investigative things?

22 A: Yes, that's correct.

23 MR. WALLER: Thank you, Mr. Paul.

24 THE COURT: All right. Anything further from the State
25 regarding this witness?

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1 MS. MCCALLISTER: No, Your Honor.

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

3 THE APPLICANT: Thank you.

4 THE COURT: Call your next witness.

5 MR. WALLER: Nothing further from the applicant, Your
6 Honor.

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

8 MS. MCCALLISTER: Thank you, Your Honor. The State
9 calls Vick Meetze.

10 THE CLERK: Do you swear or affirm that the testimony
11 you give will be the truth, the whole truth, and nothing but
12 the truth, so help you God?

13 THE WITNESS: I do.

14 WILLIAM "VICK" MEETZE, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MCCALLISTER:

18 Q: Good morning, Mr. Meetze.

19 A: Good morning.

20 Q: Do you recall your representation of Mr. Paul in this
21 matter?

22 A: I do.

23 Q: And how did you come to represent Mr. Paul?

24 A: I was court-appointed.

25 Q: Okay. And is that through your employment at the Public

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1 Defender's Office?

2 A: Right. I obviously work in the Public Defender's
3 Office. Individuals are appointed to our office for our
4 office to represent them. And then inside of our office, the
5 circuit defender assigns cases to various attorneys. So he
6 was appointed to our office and he was assigned by the
7 circuit defender for me to represent him.

8 Q: Okay. And how soon after he was arrested were you
9 assigned this case? Do you know approximately?

10 A: It looked like we opened the file -- it would have been
11 late October or early November of 2014. It's hard to tell
12 exactly, but it looks like we opened our file about a month
13 after his arrest.

14 Q: Okay. So you represented him from the fall of 2014
15 until the time of his plea in early 2016?

16 A: That's correct.

17 Q: So a little over a year?

18 A: That's right.

19 Q: Okay. And do you recall approximately how many times
20 you met with Mr. Paul?

21 A: I don't. I don't recall a number, but we met a good bit
22 of time. We met plenty --

23 Q: Okay.

24 A: -- at the jail and otherwise if he was brought to court
25 and that kind of thing.

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1 Q: Okay. And at some point he was evaluated for competency
2 and criminal responsibility; correct?

3 A: He was.

4 Q: Okay. And was that on your motion or how did that come
5 about?

6 A: That was on my motion. Basically, with the facts of
7 this case and with the suicide attempt that Mr. Paul
8 testified to earlier, those kind of things, normally when
9 I've got a client that either threatens or talks about or
10 does attempt suicide, then I'm going to make that motion, and
11 so I did.

12 Q: Okay. And so he was sent to Columbia to the Department
13 of Mental Health and evaluated; correct?

14 A: That's correct.

15 Q: And they prepared a report that was given to you; is
16 that correct?

17 A: That's correct.

18 Q: Okay. And did you review that report?

19 A: I did.

20 Q: And did you review it with Mr. Paul?

21 A: I did.

22 Q: Okay. And the report found him to be both competent and
23 that he could distinguish right from wrong in terms of kind
24 of an insanity test; correct?

25 A: That's correct.

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1 Q: Okay. So did you see his mental health as a potential
2 defense to this crime?

3 A: I did not.

4 Q: Okay. And did you tell him that?

5 A: I'm -- I mean I don't specifically recall the words, but
6 I'm certain that I did. I mean he was told that he was found
7 both criminally responsible and competent to stand trial and,
8 certainly, I never gave him an indication that at a trial of
9 this case that we would be putting forth any kind of an
10 insanity defense.

11 Q: Okay. And so you were aware just kind of generally that
12 he had some mental health issues; correct?

13 A: I was.

14 Q: Okay. And were you aware that he was taking medications
15 at the time?

16 A: I don't recall if he told me about any medications he
17 was taking or not.

18 Q: Okay. Do you recall ever having any difficulty
19 communicating with him or feeling like he understood what
20 your conversations were about?

21 A: No, I did not ever have any -- any problems
22 communicating with him and he always seemed to understand
23 conversations. He always spoke intelligently. He spoke
24 clearly about things. We never had any kind of communication
25 problems, no red flags that I can recall from -- from any of

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1 our discussions.

2 Q: Okay. And did you discuss the discovery and the
3 evidence in this case with him?

4 A: I did.

5 Q: Do you recall discussing the statement that he gave?

6 A: I -- we -- I mean the incident reports and supplemental
7 incident reports talk about the statement that he gave. Now,
8 he's correct. I did not get a copy of that and I don't know
9 why that is, but essentially in the incident report his
10 statement was he doesn't -- that he didn't remember a lot.
11 He never admitted having a gun or shooting anybody or the
12 arson or anything like that. He talked about some details
13 with regards to I think undoing one of the victim's seatbelts
14 or seeing somebody slumped over in the -- in the car, that
15 kind of thing, but his statement was a lot of not remembering
16 the events.

17 Q: Okay. Do you recall him giving you some witnesses that
18 he wanted you to track down?

19 A: I don't. And that's something I would normally write
20 down and have our investigator follow-up on and things like
21 that. Now, there wasn't any -- there weren't any witnesses
22 that -- from the incident report that would have witnessed
23 the incident and, you know, often when clients do tell me
24 about witnesses, I mean I let them know that we'll try to
25 contact those witnesses, evaluate them as far as how they

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1 would be with regards to whether they would be helpful, you
2 know, and I'll let clients know that the decision to whether
3 to call a particular witness during a trial or not would be
4 my decision as his attorney, but I don't -- I don't have
5 anywhere where he gave me those names.

6 Q: Okay.

7 A: But --

8 Q: So you don't have anything in your notes indicating he
9 gave you witnesses to investigate?

10 A: I don't.

11 Q: Okay. And can you talk just a little bit briefly about
12 the facts of this case? The two victims were a married
13 couple; correct?

14 A: Yes.

15 Q: And they were shot? They were both shot and there was
16 some -- they were -- they were -- Mr. Paul was in their car;
17 correct? When they were shot?

18 A: I believe so.

19 Q: Okay. And they were kind of all three driving around
20 just to different stores or different houses in Florence,
21 kind of running errands or doing something together that day;
22 correct?

23 A: Right. And they knew one another or at least she and he
24 knew one another. How well he knew the male I can't
25 remember.

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1 Q: Okay. And so the armed robbery part -- how did the
2 armed robbery piece come in? Do you recall?

3 A: I'd have to review the --

4 Q: Do you recall that they -- the solicitor, giving the
5 facts at the plea, that -- that he pulled a gun and asked for
6 some money and one of the victims directed him to the
7 glovebox in order to get some money?

8 A: I do -- I think so, but I never -- if I got a copy of
9 the transcript -- I've got the packet, but it does not have a
10 transcript in it. So I have not had a chance to review the
11 transcript of the plea.

12 Q: Okay.

13 A: But I can certainly -- I certainly don't disagree that
14 that would be what Mr. Tucker put forth --

15 Q: Okay.

16 A: -- with regards to the armed robbery.

17 Q: So -- so the armed robbery and the shooting takes place
18 in the car where -- where there were -- was only Mr. Paul and
19 the two victims; correct?

20 A: Right.

21 Q: To the best of your -- okay. And then the two victims
22 fled out of the car and Mr. Paul got in the car and drove off
23 with the car; correct?

24 A: Correct.

25 Q: Okay. So in terms of eyewitnesses, it would have been

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1 the two victims at trial testifying that they were robbed by
2 Mr. Paul and shot by Mr. Paul?

3 A: That's right.

4 Q: And Mr. Paul's defense to you was that he was actually
5 the one who was being robbed; correct?

6 A: That's correct.

7 Q: Okay. So at trial, it would have been two people's word
8 against Mr. Paul's word; correct?

9 A: Right.

10 Q: Okay.

11 A: And obviously, having an opportunity to tell law
12 enforcement that but not. That was what I had told him with
13 regards to a defense that certainly his position of self-
14 defense would be much stronger had that been what he told law
15 enforcement when they talked to him at the detention center,
16 but he did not.

17 And so any -- any indication I gave Mr. Paul that I
18 didn't think that was a very good defense in his case would
19 have been based on that. The fact that he did give a
20 statement that included nothing in regards to self-defense
21 would make that a difficult sell to a jury, and I'm certain
22 that I did tell him that.

23 Q: Okay. Do you recall -- he has mentioned not having a
24 transcript of the 9-1-1 call that he made. Do you recall
25 seeing a transcript of that call or listening to that call?

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1 A: I don't have that call.

2 Q: Okay. Did you tell him -- did you let him know that you
3 didn't have that call?

4 A: I -- probably, but I don't know -- remember
5 specifically.

6 Q: Okay. Do you recall that that -- that the call that he
7 made to call 9-1-1 was sometime later after -- after the
8 initial incident?

9 A: I'm -- yeah, it was certainly after the incident.

10 Q: After he had fled. I'm sorry. Not -- it wasn't
11 immediately after the shooting; it was sometime after he had
12 fled in the car?

13 A: Right. It was -- I think it was when he was in the
14 house after maybe he had tried to commit suicide. I think
15 that's where they -- they came and found him.

16 Q: Okay. So he fled in the car and eventually was found
17 hiding in a house having attempted suicide and that's from
18 where he -- he called 9-1-1 from that house; correct?

19 A: I think so and I think they said it was from, like, a
20 cell phone that was only able to dial 9-1-1.

21 Q: Okay. And it was a cell phone that had been in the
22 victim's car; correct?

23 A: I think so.

24 Q: Okay. Okay. So you talked to him about the fact that
25 you didn't have this 9-1-1 call before he went in to do this

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1 plea?

2 A: Like I said, I don't specifically remember saying that
3 if he ever -- if he asked about it. I did not have it. I
4 certainly never told him I did have it.

5 Q: Okay.

6 A: I don't specifically remember saying we don't have a
7 copy of the 9-1-1 call or a CAD report or any of that, but we
8 didn't and I don't know why.

9 Q: Do you remember him asking about an inventory of the
10 victims' pockets or their belongings at the hospital? Do you
11 remember him asking you for that?

12 A: I don't.

13 Q: Okay. He's also testified that -- I guess that you
14 showed up on Thursday, told him he could take a plea the next
15 day or that they were -- that you guys were starting trial on
16 Monday and a jury had already been picked. Do you recall
17 that conversation with him?

18 A: That -- that did not happen, at least not that way. I
19 don't know the dates of everything, but certainly we never --
20 we had not picked a jury in his case prior to the actual term
21 of court. That did not happen.

22 He was made one offer in this case, 25 years, and he
23 turned that offer down. I don't recall the exact time that
24 offer was made, but it would have been the latter part of
25 2015. Not long after he turned that offer down, he contacted

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1 me again with a letter that was mailed to me on December the
2 1st saying he had -- basically, I had a change of heart.

3 It says I am prepared to take the plea offered. I've
4 attempted to call your office but was unable to get through.
5 Please put me on the docket for this court term so that I can
6 get this over with. I thank you kindly in advance for your
7 attention to this matter.

8 So that was within I mean a very short period of time,
9 within days of him having turned down the offer but before he
10 was served with life notice.

11 Q: Okay.

12 A: I contacted Mr. Tucker. Mr. Tucker was set on --
13 certainly, with life notice at that point in time, was not
14 going to reopen the 25 years.

15 But Mr. Paul maintained at that point, you know, he did
16 not want to go to trial facing life. Even though this case
17 was eventually put on the trial docket, it was really never
18 in a trial posture. Mr. Paul had contacted me by letter
19 before he got served with life notice that he wanted to plead
20 and from that point on it was always geared towards a plea,
21 getting what offer we could get, if they would take life off
22 the table and all of that.

23 Mr. Tucker eventually did do that, but after
24 conversations with the victims in the case, he was not going
25 to do the 25 years again but was able to -- based on what he

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1 told me, you know, after talking with the victims, they could
2 all agree to the negotiated 28 years, which is what we did,
3 but it was Mr. Paul who contacted me about wanting to plea.

4 Q: Okay. Thank you. Okay. So he -- you extended him the
5 25-year offer; he turned that down?

6 A: Correct.

7 Q: And then they served him life without parole notice
8 shortly thereafter?

9 A: That was probably a few weeks, but the life notice I
10 think was done on December the 14th or 15th, something like
11 that.

12 Q: Okay. And in between that time, he wrote you the note
13 saying he had changed his mind and now wanted to plea?

14 A: Correct.

15 Q: Okay. So you started talking to the solicitor, Mr.
16 Tucker, about the fact that he had changed his mind and
17 wanted to plea?

18 A: That's correct.

19 Q: Okay. So from the time you got that letter until the
20 time he actually took a plea, in your opinion a trial was off
21 the table, at least from his perspective?

22 A: Correct.

23 Q: Okay. And whose decision was it for him to plead
24 guilty?

25 A: His.

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1 Q: Okay. On the day of the plea, did you have any concerns
2 about whether he knew what he was doing or whether this was a
3 voluntary decision to enter this plea?

4 A: I did not have any concerns. In fact, we did -- I did a
5 plea affidavit with him and all that, and there was no
6 concerns. That was -- again, this was what he wanted.

7 Q: Okay. That was my next question. So you have a plea
8 affidavit that you had him fill out; correct?

9 A: I go over it. I read the questions to them and I mark
10 the answers that they give me. So I don't just hand them the
11 form and say fill this out, please. I read the questions to
12 them and I mark their answers and all of that and then have
13 them sign it, but yes, I did that with him.

14 Q: Okay. So you did that with him and you handed that up
15 as part of his plea -- as part of the record of the plea;
16 correct?

17 A: Right. I did.

18 Q: Okay. And that plea -- kind of plea affidavit or
19 agreement that you go over, it goes over issues such as
20 whether he's pleading freely and voluntarily; correct?

21 A: Correct.

22 Q: And whether he's got any mental health issues or any
23 issues with, you know, substances that might make him not
24 understand what he was doing?

25 A: Correct.

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1 Q: And it goes over the fact that you have discussed his
2 right to have a trial and you've discussed the evidence,
3 discovery, and possible defenses?

4 A: Correct.

5 Q: Okay. So you -- you recall going over that with him and
6 him signing that; correct?

7 A: I do.

8 Q: Okay. And that was made part of the record?

9 A: It was.

10 Q: Okay. Did you ever direct Mr. Paul's answers during the
11 plea?

12 A: No, ma'am.

13 Q: Okay. You never told him he had to say yes to
14 everything?

15 A: No, ma'am.

16 Q: Okay. And he was offered a chance to speak to the judge
17 about these issues in terms of his medication and his
18 satisfaction with you; correct?

19 A: Correct.

20 Q: And he was offered a chance to speak to the judge in
21 mitigation on his own behalf; correct?

22 A: He was.

23 Q: And he never raised any of these issues at that time?

24 A: He did not, nor did he raise any with me during the
25 process of filling out the plea affidavit because those

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1 questions are on there as well.

2 MS. MCCALLISTER: That's all the questions I have.

3 THE COURT: All right. Mr. Waller?

4 MR. WALLER: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. WALLER:

7 Q: Mr. Meetze, you testified that Mr. Paul rejected an
8 offer of 25 years?

9 A: Yes.

10 Q: Shortly after that, he sent you a letter that, I guess,
11 he wanted to accept, that he changed his mind; is that right?

12 A: Yes.

13 Q: Okay. You said that was December 1st?

14 A: There's not a date on his letter. I'm looking at the
15 envelope and there's actually two dates on it, but it looked
16 like it went through Columbia on December the 1st of 2015.

17 Q: Okay.

18 A: So that's -- that's the date I'm using.

19 Q: Okay. He pled guilty January 14th, 2016?

20 A: Right.

21 Q: And you testified that it was on the trial roster. That
22 would have been the next week; is that right?

23 A: Probably. Yeah. I think that's right.

24 Q: Okay. But you -- it wasn't in a trial posture because
25 it was going to be a plea; is that --

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1 A: Right.

2 Q: Okay. If Mr. -- I mean what was going to happen if Mr.
3 Paul didn't plea?

4 A: Well, I mean it would have -- it would have gone to
5 trial.

6 Q: Okay. Were you -- had you completed your preparations
7 to go to trial at that point?

8 A: Yes. I would have been well prepared to try his case
9 had that been necessary.

10 Q: Okay. December 1st to January 14th is about six weeks.
11 I know it's around Christmastime.

12 A: Uh-huh.

13 Q: Do you recall -- it's been three years. Do you recall
14 how many terms of court y'all would have had in General
15 Sessions in Florence County between the two -- between
16 December 1st and January 14th?

17 A: December 1st would have normally been during a term of
18 General Sessions Court that normally ends the early part of
19 December and then we wouldn't have had any other terms of
20 court between then and the January term of court.

21 Q: Okay. You testified that you did not have a copy of the
22 9-1-1 call?

23 A: Right. And I looked through here this morning. I do
24 not have that, nor did I have a CAD report it does not
25 appear.

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1 Q: Okay. That's something you would normally have; is that
2 right?

3 A: Yes.

4 Q: Okay. Did you have any intention that if the case had
5 gone to trial the State sought to introduce that?

6 A: I don't know whether they would have or not. It's
7 certainly possible.

8 Q: Okay. Did you and Mr. Paul ever have a chance to talk
9 about not having it?

10 A: I don't know that we specifically talked about not
11 having it. I don't -- I don't recall it being any part of
12 any of our conversations.

13 Q: Okay. Did you and Mr. Paul ever have a chance to talk
14 about the statement that he gave to law enforcement?

15 A: We went over the discovery. We went over what the
16 incident report reflected as to the statement that he made.
17 We -- I don't have the -- didn't have a copy of the statement
18 and, again, I don't know why. That's unusual, but we went
19 over it from the standpoint of the detail that was given with
20 regards to his statement in -- it's either the incident
21 report or the supplemental incident report. So we discussed
22 it from that standpoint and discussed it from the standpoint
23 of comparing that to what he was telling me and that kind of
24 thing.

25 Q: Okay. Did y'all ever discuss him being medicated while

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1 giving that statement or anything along those lines?

2 A: I don't recall whether we did or not.

3 Q: Okay. You mentioned that you do not have any notes in
4 your file regarding witnesses that he might have asked you to
5 call, but it's your normal practice to follow up on those if
6 a client asks you to; is that right?

7 A: That's correct.

8 Q: So the normal practice is to do it, but you don't have a
9 notation in this case? You're not -- you can't sit here and
10 say 100 percent that he gave you or he did not give you
11 witnesses; is that correct?

12 A: I can't say 100 percent that he did not give me
13 witnesses. I can say I don't have any notes of any witness
14 that he -- that he gave me and I can say that our
15 investigator when he interviewed him, Thomas McKenzie, did
16 not write any names down of any names that were given to him
17 either.

18 Q: Okay.

19 A: He did give Mr. McKenzie the same story he gave me with
20 regards to it being a self-defense situation, but nothing in
21 my notes nor Mr. McKenzie's notes reflect having him give any
22 names of witnesses.

23 Q: Okay. You testified that you got the letter from Mr.
24 Paul right around December 1st or it went through Columbia
25 December 1st. And when did you reach out to Mr. Tucker about

WILLIAM "VICK" MEETZE - CROSS BY MR. WALLER

1 it?

2 A: I let Mr. Tucker know because, like I said, I mean I
3 think, you know -- and again, I don't -- I don't recall
4 specifically, but the 25 years were offered there, I think,
5 at the beginning of that November or December term.
6 Normally, sometimes it starts at the end of November and ends
7 in the first part of December. Sometimes it's through, you
8 know, December.

9 But in any event, I think he placed a call to me, like
10 the letter reflected, like maybe the day or the next day
11 after he turned down the 25 years. So I reached out to Mr.
12 Tucker before he served him with the life notice to try to
13 get that back, and Mr. Tucker was not of a mindset to do
14 that. He was set with serving him with the life notice at
15 that point in time.

16 Q: Do you recall if you asked for the 25-year offer or
17 said, you know, he wants to plea and y'all -- do you recall
18 kind of what your conversation with Mr. Tucker was?

19 A: I don't recall specifically. I'm pretty sure that I
20 said can we get that back, meaning the 25-year offer back.

21 Q: Okay.

22 A: But I can't sit here and say that that's 100 percent --
23 I have 100 percent memory as to doing that, but that's
24 generally what I'm going to do in a case like that,
25 particularly when he's changed his mind so quickly after

WILLIAM "VICK" MEETZE - CROSS BY MR. WALLER

1 turning it down.

2 Q: Okay. Regardless of, I guess, the specifics, Mr. Paul
3 had indicated to you that he was willing to take the plea and
4 the amount of time was substantially around what had been
5 previously offered?

6 A: Right. It was -- it certainly wasn't going to be any
7 better than that, but I think I was just acting on his
8 letter. I don't think I got his letter, went down and talked
9 to him about it, and then went to Mr. Tucker. I think I got
10 his letter and acted on that by contacting Mr. Tucker to let
11 him know this is what he's saying now kind of thing.

12 Q: Mr. Tucker was still adamant about serving the notice of
13 life without parole?

14 A: At that point in time, I think his position was the 25
15 years that he offered he, you know, had to do a whole lot of
16 talking with the victims to get them to be agreeable to that
17 number and once he turned it down, you know, he wasn't -- he
18 wasn't going to go through that again, so to speak, I guess.

19 Q: Okay. Did y'all have a chance to discuss self-defense?

20 A: Yes.

21 Q: Okay. Did you -- what did you do in your preparation to
22 develop or to research whether that would have been a viable
23 defense for him?

24 A: I mean I'll take what he's telling me and determine
25 whether or not that fits the elements of self-defense. I

WILLIAM "VICK" MEETZE - CROSS BY MR. WALLER

1 mean that was going to be -- any self-defense defense was
2 going to all be based on whatever he testified to and so, you
3 know, I think his testimony certainly could have garnered a
4 charge of self-defense. It's just whether or not a jury
5 would have believed that testimony and whether they would've
6 found it credible based on him not having mentioned that
7 prior.

8 Q: Okay.

9 MR. WALLER: I beg the Court's indulgence, please.

10 THE COURT: Yes.

11 MR. WALLER: Thank you, Mr. Meetze. I have nothing
12 further for you.

13 THE COURT: All right. Yes, ma'am?

14 MS. MCCALLISTER: Brief redirect, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. MCCALLISTER:

17 Q: Okay. Going back to this issue of the 9-1-1 call, do
18 you remember him ever telling you, like, that the 9-1-1 call
19 would help his self-defense claim in some way?

20 A: I don't.

21 Q: Okay. And you talked to him -- you said -- you
22 testified that you talked to him about his statement, at
23 least as far as it was reflected in the incident report or
24 the supplemental report; correct?

25 A: Right.

WILLIAM "VICK" MEETZE - REDIRECT BY MS. MCCALLISTER

1 Q: And that statement was that he did not recall or his
2 memory was fuzzy about what had happened?

3 A: A lot of the details he did not recall.

4 Q: Okay.

5 A: He recalled some vague details with regards to, I think,
6 her being slumped over in the chair, I think maybe something
7 about unbuckling her seatbelt, but the incident report was --
8 indicated that he said nothing about ever possessing a gun,
9 ever shooting anybody, ever setting the car on fire, that
10 kind of thing.

11 Q: Okay. And did he ever tell you -- when you guys talked
12 about his statement as reflected in those reports, did he
13 ever tell you that that was wrong and that wasn't what he had
14 said?

15 A: No.

16 Q: Okay. And he never told you, well, I can't -- the
17 reason I can't remember is because I was on medication?

18 A: I don't -- I don't know whether he said -- I don't
19 recall what he said in that regard as to why he -- he didn't
20 -- wasn't, you know, forth -- as forthcoming with regards to
21 law enforcement, whether he said he -- I can't remember what
22 he said in that regard.

23 Q: Okay. If you had gone to trial, would you have filed a
24 motion to challenge the admissibility of the statement?

25 A: His prior statement?

WILLIAM "VICK" MEETZE - REDIRECT BY MS. MCCALLISTER

1 Q: His statement to law enforcement.

2 A: We would have had a Jackson v. Denno hearing. We do
3 that anytime there's a statement. I think that -- just
4 having worked with this solicitor's office a lot, I don't
5 think that they would've made any effort to introduce it
6 unless, you know, he testified. You know, once he testified,
7 then I think they would have. Typically, statements that are
8 self-serving or whatever, the State many times doesn't make
9 an effort to introduce it, but we would have had a Jackson v.
10 Denno hearing.

11 Q: Okay. So you would have had a hearing -- assuming that
12 someone was trying to introduce that statement, you would
13 have had a hearing to assess whether it had been given
14 voluntarily?

15 A: Yes.

16 Q: Okay. But you just never got to that stage because you
17 never -- you never started trial?

18 A: That's right.

19 Q: Okay. And you kind of mentioned this, but in order for
20 you to put up a defense of self-defense, Mr. Paul would have
21 had to testify; correct?

22 A: Certainly, that's my feeling. I don't know of any other
23 way his side of the story would have gotten in other than him
24 testifying.

25 Q: Okay. Because there were no other eyewitnesses? It was

WILLIAM "VICK" MEETZE - REDIRECT BY MS. MCCALLISTER

1 only the victims and him who could have testified about that;
2 correct?

3 A: Right. And he had not mentioned anything about self-
4 defense when he did talk to law enforcement.

5 Q: Okay. And if he testified, then his previous record
6 would have been available for the State to cross-examine him
7 on; correct?

8 A: Correct.

9 Q: And his prior record includes previous robberies;
10 correct?

11 A: Correct.

12 Q: And you -- you talked a little bit about the plea
13 negotiations a couple times. You said that he -- you quickly
14 went back to the solicitor to try to get the 25-year offer
15 again and he was stuck on life without parole, but you --
16 that wasn't the last conversation; correct? You continued to
17 negotiate a plea for him?

18 A: Correct.

19 Q: Okay. And you were eventually able to negotiate the 28
20 years?

21 A: That's right.

22 Q: And they withdrew the life without parole?

23 A: Yes.

24 Q: Okay.

25 MS. MCCALLISTER: That's all. Thank you.

1 THE COURT: All right. Mr. Waller, anything else?

2 MR. WALLER: Nothing further, Your Honor.

3 THE COURT: All right. You have a good day.

4 THE WITNESS: Thank you.

5 MS. MCCALLISTER: Oh, I'm sorry, Your Honor. Before he
6 gets off the stand -- sorry, Your Honor. I just -- that
7 letter from -- from Mr. Paul, Your Honor, I would ask to
8 admit that into evidence.

9 THE COURT: All right. Any objections?

10 MR. WALLER: Your Honor, if I could see it first?

11 THE COURT: Sure.

12 MR. WALLER: I guess -- would it be possible for me to
13 ask a few questions --

14 THE COURT: Sure.

15 MR. WALLER: -- regarding --

16 THE COURT: All right.

17 MR. WALLER: -- the -- well, let me do it this way,
18 Judge. I would -- I would object to it. I don't believe
19 there's any foundation laid. It obviously is a hearsay
20 document. There hasn't been a foundation laid to make it
21 admissible under one of the exceptions. So I would object to
22 it at this time.

23 THE COURT: All right. And how would you get around
24 hearsay?

25 MS. MCCALLISTER: Well, Your Honor, it's in -- it's in

1 his file. So whether -- I don't think it's hearsay
2 necessarily because it doesn't matter what is -- what is in
3 the letter. It matters that Mr. Meetze received it and acted
4 on it or acted on the -- in order to negotiate the plea and
5 change from a plea to a trial.

6 THE COURT: I don't think that would make it not
7 hearsay.

8 MS. MCCALLISTER: I'm sorry?

9 THE COURT: I don't think that would -- that would make
10 it not hearsay just because he acted on it and relied on it.

11 MS. MCCALLISTER: Your Honor, I guess I'm thinking that
12 it's more for -- it's not -- what's contained in the letter
13 isn't so much the issue. It's the fact that Mr. Meetze got
14 it and that is why he did what he did in terms of switching
15 from a trial posture to a plea posture.

16 Your Honor, if I need to, I can recall the applicant and
17 lay some foundation about whether he wrote that letter. If
18 he wrote it and it's in his attorney's file, I think it's
19 admissible in a PCR.

20 THE COURT: All right. Is it in -- well, if you'd like
21 to recall him, you may, but just because it's in the file
22 does not make it not hearsay.

23 All right. You may step down. And he's already
24 testified to it anyway. So -- but all right.

25 Mr. Paul, if you would, come on back up to the stand.

ORLANDO PAUL - DIRECT BY MS. MCCALLISTER

1 MS. MCCALLISTER: May I approach the witness, Your
2 Honor?

3 THE COURT: Yes, ma'am.

4 MS. MCCALLISTER: Thank you.

5 ORLANDO PAUL, being previously
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. MCCALLISTER:

9 Q: Mr. Paul, I just would ask you to look at that document
10 and tell me if you recognize it?

11 A: Yes, ma'am. This looks like my handwriting in the
12 letter that I wrote.

13 Q: Okay. And that's a letter then that you wrote to Mr.
14 Meetze; correct?

15 A: Yes, ma'am.

16 Q: And in that letter, you're telling him that you wanted
17 to -- that you want to take the plea that was offered;
18 correct?

19 A: Yes, ma'am.

20 Q: Okay. Do you recall writing that letter?

21 A: To be honest with you, no, ma'am, I don't.

22 Q: Okay. But you agree that that's your handwriting and
23 that's your signature on the letter?

24 A: Yes, ma'am.

25 Q: Okay.

1 MS. MCCALLISTER: Your Honor, at this time, I would move
2 to admit the letter.

3 THE COURT: All right. Any objections?

4 MR. WALLER: No objection, Your Honor.

5 THE COURT: All right.

6 MS. MCCALLISTER: Thank you.

7 (WHEREUPON, State's Exhibit Number 1, a letter, was
8 admitted into evidence.)

9 THE COURT: Stay there.

10 MR. WALLER: No.

11 THE COURT: Thank you. You may step down, Mr. Paul.
12 Thank you.

13 All right. I'll take the matter under advisement and
14 let you know something by Friday.

15 MR. WALLER: Judge, I apologize. I thought I was going
16 to have to make --

17 THE COURT: That's fine.

18 MR. WALLER: -- a motion to amend, but I see that it was
19 covered in the initial application. So I won't.

20 THE COURT: All right. That sounds good.

21 (WHEREUPON, the proceedings ended at 11:03 a.m.)

22

23 --- END REQUESTED TRANSCRIPT ---

24

25

1	State of South Carolina	)	
2		)	Certificate
3	County of Florence	)	

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 58, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of Common Pleas for Florence County, South Carolina, on the 4th day of March, 2019.

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

17 s/Krystal J. Smith

18 Court Reporter

20	Florence, South Carolina
----	--------------------------

21	January 5, 2020
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Mr. Metz,

I am prepared to take the plea offered. I have attempted to call your office but was unable to get through. Please put me on the docket for this court term so that I may get this over with.

I thank you kindly in advance for your attention to this matter.

Truly,

Mr. Orlando Paul

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Orlando Paul, #231996,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE TWELFTH JUDICIAL CIRCUIT

C.A. No. 2017-CP-21-0112

ORDER OF DISMISSAL

DOMS PAULOS O'HARA
CCCP & GS
FLORENCE COUNTY, S.C.

2019 AUG -5 PM 1:10

FILED

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Orlando Paul (Applicant) on January 17, 2017. Respondent made its Return and Motion to Dismiss on April 26, 2017. After a hearing on the motion, Respondent's motion was denied. Respondent then filed an Amended Return and Partial Motion to Dismiss on September 18, 2018. An evidentiary hearing into the matter was convened March 3, 2019, at the Florence County Courthouse before the undersigned. Jonathan D. Waller, Esquire, represented Applicant. Assistant Attorney General Lindsey A. McCallister represented Respondent.

At the hearing, Applicant testified on his own behalf. William Vickery Meetze, Esquire, Applicant's plea counsel, was also called to testify. This Court also had before it a copy of the records of the Florence County Clerk of Court, records from the South Carolina Department of Corrections, the PCR application, Respondent's Amended Return, and the guilty plea transcript. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof and denies this application for relief.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. Applicant was indicted at the March 2015 term of the Florence County Grand Jury for two counts of attempted murder, possession of a firearm by a convicted felon, and armed robbery (2015-GS-21-0272). The charges arose from an incident which took place on October 11, 2014. The victims, Adunte Gibson and Latasha Davis, who are married, went with Applicant that morning to Walmart to purchase cell phones. Tr. p. 15. They planned to sell the phones for a profit on Craigslist; however, they left Walmart without purchasing any phones. Tr. p. 15. When they left Walmart, Davis was driving the car, Gibson was in the front passenger seat, and Applicant was riding in the back seat. Davis drove Applicant to two different houses, as Applicant requested. When the group arrived at the second house, Applicant shot Gibson and Davis from the back seat of the car. Tr. pp. 15-16.

Gibson fled the car and entered a neighboring house, whose occupants called 911. Tr. pp. 13-14, 16. After Gibson fled the car, Applicant exited the car and moved next to the driver's side window where he held Davis at gunpoint. Tr. p. 16. Applicant demanded Davis tell him where the money was located, and Davis responded the money was in the glovebox. Davis fled to a nearby field after Applicant turned his attention towards the glovebox. Davis hid in the field until she heard Applicant get in the car and drive away. Tr. p. 16. Gibson's phone was still in the car when Applicant drove away. Tr. p. 16. At some point after the shooting, Applicant used Gibson's cell phone to call 911. The police traced Gibson's cell phone to an abandoned house and found Applicant inside. Tr. p. 18.

William Vickery Meetze, Esquire, represented Applicant. Todd Tucker, Esquire, prosecuted the case on behalf of the State. The State served Applicant with its notice of intent to seek life without parole (LWOP) based on Applicant's prior convictions for common law robbery in 1996 and armed robbery in 2004. Tr. p. 19. Instead of proceeding to trial, on January 14, 2016, Applicant pleaded guilty to two counts of attempted murder and armed robbery.¹ Pursuant to a negotiated plea agreement between Applicant and the State, the Honorable D. Craig Brown sentenced Applicant to imprisonment for concurrent terms of twenty-eight years. Applicant did not appeal his plea or sentence.

ALLEGATIONS

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

1. "Ineffective assistance of counsel"
 - a. "failure of investigators to perform investigation and follow several leads [I] provided;"
 - b. "Counsel did not: alert of plea offers; contact key witnesses; did not follow leads provided; pursue any reasonable or logical actions relegated to him as defined by law; did not ask whether under control of medications which altered my thinking, reasoning, and/or decision making;"
2. "Failure of trial judge to ensure that [I] was not under influence of meds and that plea was voluntary"
3. "State failed burden of proof"

¹ Applicant was also indicted at the December 2015 term for third-degree arson (2015-GS-21-0465), and he pleaded guilty to that charge on the same day. Judge Brown sentenced him to fifteen years to be run concurrently to his sentence for the charges on indictment 2015-GS-21-0272. The State dismissed the charge for possession of weapon *nolle prosequi*. Applicant did not challenge his guilty plea with respect to the arson conviction in this application.

Applicant requests relief in the form of a “sentence reduction in the amount of fifteen years subtracted from current sentence, as well as any other remedies and reliefs accorded by law.”

At the evidentiary hearing, Respondent renewed its partial motion to dismiss regarding Applicant’s second and third claims. This Court grants Respondent motion and finds these allegations of trial court error and lack of sufficient evidence are issues not properly before this Court. See Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (finding trial court error and sufficiency of evidence are not a cognizable claims for PCR); S.C. Code Ann. § 17–27–20(b). Through counsel, Applicant stated he wished to proceed on his remaining claims of ineffective assistance of counsel. Applicant’s PCR counsel also informed the Court he had explained to Applicant the relief available in PCR is a remand for a new trial, and this Court cannot reduce Applicant’s sentence, and Applicant still wished to proceed with this action.

SUMMARY OF TESTIMONY

Applicant testified after he was arrested on these charges, he first went to the hospital for a suicide attempt, then to the detention center. Applicant testified Counsel represented him throughout the entire case, and he served fifteen months prior to entering his guilty plea. According to Applicant, he was heavily medicated the first few months after his arrest and had a hard time communicating, so he did not remember the first time he met with Counsel. Applicant explained he was able to think clearly once he stopped taking the medications. Applicant testified he saw a psychiatrist once a week while he was in pretrial detention. On cross-examination, Applicant agreed he had a mental health evaluation prior to his guilty plea, but he stated Counsel never showed him the report; Counsel simply told him it would not be useful.

Applicant further testified he and Counsel discussed Applicant's version of events. Applicant explained he told Counsel he was the one being robbed, and he took control of the gun and shot because he was scared. According to Applicant, Counsel said he needed a better story because no one would believe Applicant's version. Applicant also testified he gave Counsel the names of three potential witnesses but Counsel told him they were not credible. Applicant also testified although he called 911 to report the shooting, he never heard a recording of the call, and Counsel told him Counsel had not listened to it, nor did Counsel have a transcript of the recording. Applicant did not recall that witnesses had also called 911 to report the shooting and stated he and Counsel never discussed it.

Applicant stated he gave a recorded statement to law enforcement, and Counsel never discussed that statement with him either. Applicant testified he gave the statement approximately two days after being released from the hospital, during the time period when he was still having difficulty communicating. Applicant stated he and Counsel never discussed Applicant being medicated at the time he gave the statement, and according to Applicant, Counsel did not have a copy of the statement or Applicant's suicide note. Applicant also testified he wanted Counsel to obtain an inventory of the victims' belongings and clothes from the hospital because if he had robbed them, they should not have had any money or belongings with them. Applicant further stated he and Counsel never discussed the possibility of raising self-defense, and Applicant stated he never mentioned it to Counsel.

Applicant agreed he and Counsel discussed the technical aspects of trial such as the order of events, but Applicant felt Counsel wanted him to plead guilty. Applicant explained he received

the State's notice of intent to seek life without parole (LWOP) approximately three weeks before his trial date, and the notice changed his opinion of his options. Applicant stated he had previously rejected a twenty-five-year offer, and he found out later the State had made two other offers. Applicant testified he would not have accepted them prior to the service of the LWOP notice, but he also did not know exactly what the terms of the offers were. Applicant stated he did not feel Counsel had investigated his case because he did not have a copy of the suicide note, Applicant's statement, or mental health records, and therefore, Applicant did not think Counsel was prepared for trial. Applicant testified he wanted a trial to defend himself, and he would have gone to trial if Counsel had done the things Applicant asked him to do.

On cross-examination, Applicant agreed he told the plea court he was satisfied with Counsel's representation and wished to plead guilty, but he did so because Counsel instructed him to say yes to all of the questions. Applicant testified he initially told Counsel he did not want to plead guilty, and he would only agree to a ten-year sentence. However, Applicant also testified he and Counsel discussed the LWOP notice once the State served it, and Counsel explained the strikes law to him. Applicant agreed he had previous robbery convictions on his record, had been through the justice system in the past, and he knew this was his chance to speak to a judge about his case. Applicant also admitted he was aware Counsel allegedly had not done the investigation he requested at the time of the guilty plea, but he stated he did not inform the plea court because the courtroom was more volatile than he expected it to be.

Counsel testified he was appointed to Applicant's case approximately a month after Applicant's arrest, and he represented Applicant for just over a year. Counsel testified they met

many times to discuss the case. Counsel explained Applicant knew the female victim, and the robbery and shooting took place in a car with only the two victims and Applicant present. Counsel further explained Applicant had an opportunity to tell law enforcement his version of the story in which Applicant was actually the victim, but Applicant never told them that. Counsel did not recall Applicant giving him the names of any witnesses and stated there would not have been any witnesses to the event except him and the victims, so it was Applicant's word against theirs.

Counsel testified he made a motion to have Applicant evaluated due to the suicide attempt, and Applicant was sent to the Department of Mental Health (DMH). Counsel testified he reviewed the DMH report with Applicant, and in Counsel's opinion, mental health was not a viable defense. Counsel agreed he never received a written copy of Applicant's statement, but he testified the statement was mostly Applicant saying he did not remember the events. Counsel testified he reviewed the incident report, and it did not indicate any further witnesses to investigate, nor did Applicant ever tell Counsel any of the information contained in the report was incorrect. Counsel also stated he did not have a copy of the 911 call, which was unusual, but he would have informed Applicant he did not have that information. Counsel explained the 911 call was made by Applicant sometime after the shooting, from the house where Applicant was hiding when he tried to commit suicide. Counsel stated he did not recall Applicant indicating the 911 call would be helpful for a defense. Counsel also testified Applicant never asked him to investigate whether the victims had any money or items with them at the hospital. Further, Counsel testified he would have filed a motion to determine the admissibility of Applicant's statement had the case ended up at trial, but it never got to that stage. Counsel also explained Applicant would have had to testify to establish

self-defense, and in doing so, Applicant would have exposed himself to cross-examination about his prior record.

Counsel testified the State made only one offer, which was the twenty-five year offer. Counsel explained Applicant initially declined the offer, but then Applicant contacted Counsel by letter a few days later saying he had changed his mind and was prepared to accept. Counsel testified the State was set on serving the LWOP notice after Applicant rejected the twenty-five-year offer and would not agree to re-extend it. Counsel stated Applicant's case was put on the trial roster, but they never picked a jury in the case because it was never in a trial posture after Applicant decided to plead guilty. However, he testified he would have been prepared if Applicant refused the plea. Counsel stated he continued to negotiate with the State, and the State eventually agreed to withdraw the LWOP notice and to allow Applicant to plead to a negotiated twenty-eight-year sentence. According to Counsel, he read through his standard plea affidavit with Applicant, Applicant did not raise any concerns and signed it, and Counsel made it part of the record at the plea hearing. Counsel testified he had no concerns about whether Applicant understood what he was doing in entering the plea, and it was Applicant's decision to do so. Counsel further denied directing Applicant's answers during the plea colloquy and stated Applicant declined to speak to the judge when offered the chance.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the record and heard the testimony at the PCR hearing. This Court has observed the witnesses presented at the evidentiary hearing, judged their credibility, and

weighed their testimony accordingly in its discussion below. Set forth below are findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code.

Applicant alleges he received ineffective assistance of counsel. In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (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, 286 S.C. at 443, 334 S.E.2d at 814. 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. at 689. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel’s performance was deficient. Id. Under this prong, the court measures an attorney’s performance by its “reasonableness under professional norms.” Id. (quoting Strickland, 466 U.S. at 688). Second, counsel’s allegedly 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. When there has been a

guilty plea, the applicant must prove counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

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

For the reasons stated below, the Court denies relief and dismisses the allegation with prejudice.

Involuntary guilty plea

Applicant alleges his guilty plea was unknowingly and involuntarily entered. This Court disagrees and finds the plea transcript is dispositive as to this issue. The Court finds the combined record from the plea hearing and the evidentiary hearing clearly establishes Applicant pleaded guilty freely and voluntarily.

"[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced." Reed v. Becka, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). An applicant who pleads guilty with the advice of counsel may collaterally attack the plea only by showing (1) counsel was deficient and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pleaded guilty

and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citing Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000); Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000); Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994); Lockhart, 474 U.S. at 52). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Lockhart, 474 U.S. at 56.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. Harres, 282 S.C. at 133, 318 S.E.2d at 361. However, statements made during a guilty plea should be considered conclusive, unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir. 1975), overruled on other grounds by United States v. Whitley, 759 F.2d 327 (4th Cir. 1985).

The plea transcript reflects Applicant informed the plea court he was clearheaded and understood what he was doing in entering the guilty plea. Tr. pp. 7-8. The plea court specifically inquired as to Applicant's medication and Applicant stated it did not prevent him from understanding what he was doing. Tr. pp. 7-8. The plea court clearly explained the terms of the agreement for a negotiated sentence of twenty-eight years, and Applicant stated he wanted the plea court to accept the agreement. Tr. pp. 8-10. Further, the plea court explained Applicant's right to a jury trial, and Applicant's right to present evidence in his defense. Tr. p. 11. Importantly, Applicant stated he was fully satisfied with Counsel, he had enough time to meet with him to discuss his options and he had no more questions for Counsel. Applicant also averred no one had threatened him or promised him anything to induce his plea, and he was entering it of his own free will. Tr. pp. 12-13. Counsel then informed the plea court he had discussed the case with Applicant and reviewed the plea affidavit with him, and Applicant did not object or correct Counsel's assertions. Tr. p. 23.

In addition to the plea transcript, this Court finds credible Counsel's testimony as to how the guilty plea came about. Specifically, the Court finds credible Counsel's testimony there was originally only one plea offer, for twenty-five years, which Applicant initially rejected. Counsel testified the State insisted on pursuing LWOP after Applicant rejected that offer, but Counsel continued to negotiate until the State agreed to withdraw its notice and allow Applicant to plead guilty for a negotiated twenty-eight-year sentence. Although Applicant has alleged Counsel's failure to investigate induced his plea, Applicant has offered no witnesses or evidence to meet his burden as to prejudice.

Accordingly, this Court finds Applicant pleaded guilty freely and voluntarily after discussing his options with Counsel in order to avoid receiving a life sentence if convicted at trial. This Court further finds Counsel's representation of Applicant was not deficient, nor was Applicant prejudiced by Counsel's representation. The plea transcript reflects Applicant understood the terms of the plea agreement and chose to waive his rights and plead guilty. Therefore, this Court denies relief and dismisses this allegation with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. Therefore, this application for post-conviction relief is denied and dismissed with prejudice.

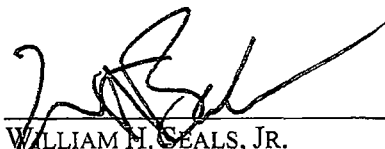
Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR (providing the appropriate procedure to perfect an appeal). Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has the right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Further, Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for the appropriate procedures for appealing a judgment in a PCR action.

IT IS THEREFORE ORDERED:

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall be remanded to the custody of Respondent.

AND IT IS SO ORDERED.

7/30, 2019


 WILLIAM H. SEALS, JR.
 Presiding Circuit Court Judge
 Twelfth Judicial Circuit

DORIS FLORES O'HARA
 C.C.P. & G.S.
 FLORENCE COUNTY, SC

2019 AUG -5 PM 1:14

FILED

CERTIFIED: A TRUE COPY

 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

WITNESSES

Scott Williamson Florence Police Department

DOCKET NO: 2015-GS-21-00272

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

MARCH TERM 2015

THE STATE

vs.

ORLANDO WILLIAM PAUL

ARREST WARRANT NUMBER

2014A2120201465 2014A2120201466
2014A2120201467

2014A2120201468

ACTION OF GRAND JURY

Indictment for

**ATTEMPTED MURDER (TWO COUNTS),
POSSESSION OF A FIREARM BY A
CONVICTED FELON,
ARMED ROBBERY**

Foreperson of Grand Jury

Date: 3-12-15

VERDICT

Foreperson of Petit Jury

Date:

2015 MAR 12 AM 11:54
CONNIE REEL-SHEARIN
CCCP & GS
FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)

INDICTMENT FOR
 ATTEMPTED MURDER (TWO COUNTS),
 POSSESSION OF A FIREARM BY A CONVICTED
 FELON,
 ARMED ROBBERY

At a Court of General Sessions, convened on MARCH 12, 2015 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- ATTEMPTED MURDER

That ORLANDO WILLIAM PAUL did in Florence County on or about October 11, 2014 with intent to kill ADUNTE GIBSON, attempt to kill the victim with malice aforethought, either expressed or implied to wit: by shooting the victim multiple times, in violation of Section 16-3-29, S. C. Code of Laws, 1976, as amended.

COUNT TWO- ATTEMPTED MURDER

That ORLANDO WILLIAM PAUL did in Florence County on or about October 11, 2014 with intent to kill LATASHA DAVIS, attempt to kill the victim with malice aforethought, either expressed or implied to wit: by shooting the victim multiple times, in violation of Section 16-3-29, S. C. Code of Laws, 1976, as amended.

COUNT THREE - POSSESSION OF A FIREARM BY A CONVICTED FELON

That ORLANDO WILLIAM PAUL did in Florence County on or about October 11, 2014 knowingly possess or acquire a pistol after having been convicted of a crime of violence defined in Section 16-23-10, S. C. Code of Laws, 2003, as amended, to wit: Armed Robbery, in violation of Section 16-23-0500(A), S. C. Code of Laws, 1976, as amended.

COUNT FOUR- ARMED ROBBERY

That ORLANDO WILLIAM PAUL did in Florence County on or about October 11, 2014, while armed with a deadly weapon, to wit: a hand gun, take and carry away personal property of ADUNTE GIBSON and LATASHA DAVIS from or in the immediate presence of ADUNTE GIBSON and LATASHA DAVIS with intent to deprive ADUNTE GIBSON and LATASHA DAVIS of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. 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.



E.L. Clements, III
 TWELFTH CIRCUIT SOLICITOR